



## LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

## AGENDA - REGULAR MEETING

Date: April 7, 2004

Time: Closed Session 5:30 p.m.  
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Susan J. Blackston

City Clerk

Telephone: (209) 333-6702

**NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

### C-1 Call to Order / Roll Call

### C-2 Announcement of Closed Session

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed
- e) Actual Litigation: Government Code §54956.9(a); one case; City of Lodi, a California Municipal Corporation, and Lodi Financing Corporation, a California nonprofit corporation v. Lehman Brothers, Inc. and US Bank National Association, United States District Court, Eastern District of California, Case No. CIV. S-04-0606 MCE-KJM

### C-3 Adjourn to Closed Session

**NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.**

### C-4 Return to Open Session / Disclosure of Action

#### A. Call to Order / Roll call

B. Invocation – Pastor Paul Zimmerman, St. Peter Lutheran Church

#### C. Pledge of Allegiance

#### D. Presentations

##### D-1 Awards

- a) Presentation of the Bob Hildreth 2004 Library Volunteer of the Year Award to Patricia Pischnalnikoff (LIB)

##### D-2 Proclamations

- a) National Library Week (LIB)
- b) National Youth Service Day (LIB)
- c) Sexual Assault Awareness Month

##### D-3 Presentations – None

**E. Consent Calendar (Reading; comments by the public; Council action)**

- E-1 Receive Register of Claims in the amount of \$6,779,601.43 (FIN)
- E-2 Approve minutes (CLK)
  - a) March 3, 2004 (Regular Meeting)
  - b) March 9, 2004 (Shirtsleeve Session)
  - c) March 9, 2004 (Special Meeting)
  - d) March 12, 2004 (Special Meeting)
  - e) March 16, 2004 (Shirtsleeve Session)
  - f) March 16, 2004 (Special Meeting)
  - g) March 22, 2004 (Special Meeting)
  - h) March 23, 2004 (Shirtsleeve Session)
  - i) March 23, 2004 (Adjourned Special Meeting)
  - j) March 25, 2004 (Special Meeting)
  - k) March 31, 2004 (Special Joint Meeting with the East Side Improvement Committee)
- E-3 Report of the sale of scrap metal (EUD)
- E-4 Approve specifications and authorize advertisement for bids for steel streetlight standards (EUD)
- E-5 Approve specifications and authorize advertisement for bids for wood utility poles as required during calendar year 2004 (EUD)
- Res. E-6 Adopt resolution awarding contracts for City-wide janitorial services to Korean Professional Building Maintenance, of Stockton; ServiceMaster Commercial Building Maintenance, of Sacramento; and Cleaning Concepts, of Lodi (PW)
- Res. E-7 Adopt resolution accepting the improvements for Harney Lane Sanitary Sewer Lift Station (PW)
- Res. E-8 Adopt resolution accepting the public improvements of the public alley north of Oak Street, west of Central Avenue at the Joe Serna, Jr., Charter School Site (PW)
- Res. E-9 Adopt resolution to approve the improvement agreement for the public improvements of 620 South Cherokee Lane (APN 047-450-36) and appropriate funds for applicable reimbursements (\$85,000) (PW)
- Res. E-10 Adopt resolution authorizing the City Manager to execute a contract with the Lodi-Tokay Rotary Club for the 13<sup>th</sup> Annual Oooh Ahhh Festival to be held on July 4, 2004 (\$18,000) (CM)
- Res. E-11 Adopt resolution authorizing the City Manager to allocate \$14,675 to fund a City of Lodi Parks and Recreation lighting retrofit project and to execute a contract with Eagle Energy Management to conduct the project work (PR)
- Res. E-12 Adopt resolution approving Memorandum of Understanding between the City of Lodi and Lodi Professional Firefighters (HR)
- Res. E-13 Adopt resolution approving Memorandum of Understanding between City of Lodi and Association of Lodi City Employees (General Services) (HR)
- Res. E-14 Adopt resolution approving the renewal of the renegotiated Fire Emergency Services Dispatch agreement with the Stockton Fire Department (FD)
- Res. E-15 Adopt resolution authorizing the City Manager to execute a one-year on-site catering agreement at Hutchins Street Square with Wine Valley Catering, Inc. (COM)
- Res. E-16 Adopt resolution authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the Lodi Residential Swimming Pool Pump & Motor Rebate Program for City of Lodi Electric Utility customers (EUD)
- Res. E-17 Adopt resolution supporting the continuous operation of the Defense Distribution Center San Joaquin (CD)
- Res. E-18 Adopt resolution to revise the current abatement fee schedule for rotating contractor list (CD)

**F. Comments by the public on non-agenda items**

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

**G. Public Hearings**

- G-1 Continue public hearing to April 21, 2004, to consider an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road (CD)
- G-2 Re-continue public hearing to April 21, 2004, to consider redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow the relocation of C-Basin (PW)

**H. Communications**

- H-1 Claims filed against the City of Lodi  
a) Magellan Environmental, Inc., date of loss 11/03 through 2/04
- H-2 Reports: Boards/Commissions/Task Forces/Committees – None
- H-3 Appointments – None
- H-4 Miscellaneous – None

**I. Regular Calendar**

- I-1 Updates from Mayor Larry Hansen regarding the following issues: (CC)
- Barger & Wolen audit of Envision Law Group's billings
  - status of recruitment process for new City Attorney
  - progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation
  - legal proceedings relative to the Environmental Abatement Program litigation
- I-2 Approve Special Allocation for expenses incurred for moving and storing Environmental Abatement Program (EAP) litigation files (\$17,005); and Kronick Moskovitz Tiedemann & Girard bill for services in the EAP litigation for February 2004 (\$100,936.58) (CA)
- Res. I-3 Adopt resolution approving an agreement between City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pool at Twin Arbor Athletic Club facilities for the period of May 31, 2004 to July 25, 2004 (PR)
- Res. I-4 Adopt resolution approving the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response, and A-1 Ambulance (FD)
- I-5 Discussion and appropriate action regarding 1) placing a ballot measure establishing "Big-Box" size limits on the November 2, 2004, ballot; 2) establishing a "Big-Box" size limit for the ballot measure; and 3) placing a moratorium on "Big-Box" retail pending the results of a November 2, 2004, ballot measure (CD)
- Res. I-6 Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position (HR)

**J. Ordinances**

- Ord. J-1 Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official  
(Adopt) Map of the City of Lodi and Thereby Rezoning the Parcel Located at 5952 East Pine Street  
(APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy  
Industrial"
- Ord. J-2 Ordinance No. 1746 entitled, "An Ordinance of the City Council of the City of Lodi Amending  
(Adopt) Lodi Municipal Code Title 17, Zoning, by Adding Chapter 17.58, Design Standards for Large  
Retail Establishments"

**K. Comments by the City Council Members on non-agenda items**

**L. Comments by the City Manager on non-agenda items**

**M. Adjournment**

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

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Susan J. Blackston  
City Clerk



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Presentation of the Bob Hildreth Library Volunteer of the Year Award to Patricia Pischalnikoff

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Library Services Director

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**RECOMMENDED ACTION:** Millard Fore, President of the Library Board of Trustees will present the award to Patricia Pischalnikoff

**BACKGROUND INFORMATION:** At its March 19, 2001, meeting, the Library Board of Trustees established the *Bob Hildreth Library Volunteer of the Year Award* to be awarded during National Library Week to honor the library volunteer who contributed significantly to the support of library services for the Lodi Public Library and the residents of Lodi.

The 2004 recipient of this service award is Patricia Pischalnikoff. Mrs. Pischalnikoff was a charter member of the Friends of Lodi Public Library. During the twenty-five year history of the Friends of Lodi Public Library, she has served in numerous capacities on the Friends Board including two terms as the organization's treasurer. Since 1999 she has coordinated the volunteers in the Friends Shut-In program who read to seniors in convalescent homes. As a member of this program she herself reads to residents at Vienna Assisted Living Residence and the Senior Day Care Center at Hutchins Street Square. She has been a tutor in the library's Adult Literacy Services for over 8 years. For the past year Patricia has volunteered in the Friends' Book Sale Office where she works tirelessly sorting and stocking books for the Friends ongoing sale. To quote her nominator, "Patricia Pischalnikoff is a dependable, efficient and important member" of the library's volunteer team.

**FUNDING:** None

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Nancy Martinez  
Library Services Director

NM/sb

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** National Library Week

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Nancy C. Martinez, Library Services Director

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**RECOMMENDED ACTION:** That Mayor Hansen present a proclamation proclaiming the week of April 18 - April 24, 2004, as "National Library Week."

**BACKGROUND INFORMATION:** Mayor Hansen has been requested to present a proclamation proclaiming the week of April 18 - April 24, 2004, as "National Library Week." Nancy Martinez, Library Services Director, will be present to accept the proclamation.

**FUNDING:** None Required

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Nancy C. Martinez  
Library Services Director

NM/sb

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



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## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** National Youth Service Day

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Nancy C. Martinez, Library Services Director

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**RECOMMENDED ACTION:** That Mayor Hansen present a proclamation proclaiming April 18, 2004, as "National Youth Service Day."

**BACKGROUND INFORMATION:** Mayor Hansen has been requested to present a proclamation proclaiming the Sunday, April 18, 2004, as "National Youth Service Day." Nancy Martinez, Library Services Director and AmeriCorps VISTA, Jessie Ryan, will be present to accept the proclamation.

**FUNDING:** None Required

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Nancy C. Martinez  
Library Services Director

NM/sb

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Sexual Assault Awareness Month

**MEETING DATE:** April 7, 2004

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** That Mayor Hansen present a proclamation proclaiming the month of April 2004 as "Sexual Assault Awareness Month" in the City of Lodi.

**BACKGROUND INFORMATION:** The Mayor has been requested to present a proclamation proclaiming the month of April 2004 as "Sexual Assault Awareness Month" in the City of Lodi. Anissa Flores, representing the Women's Center of San Joaquin County, will be at the meeting to accept the proclamation.

**FUNDING:** None required.

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Susan J. Blackston  
City Clerk

SJB/JMP

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager





## **CITY OF LODI COUNCIL COMMUNICATION**

**AGENDA TITLE:** Receive Register of Claims Dated March 23, 2004, in the Amount of \$6,779,601.43

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Finance Technician

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**RECOMMENDED ACTION:** That the City Council receive the attached Register of Claims. The disclosure of the PCE/TCE expenditures are shown as a separate item on the Register of Claims.

**BACKGROUND INFORMATION:** Attached is the Register of Claims in the amount of \$6,779,601.43 dated March 23, 2004, which includes PCE/TCE payments of \$34,590.76.

**FUNDING:** As per attached report.

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Vicky McAthie, Finance Director

VM/kb

Attachments

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

Accounts Payable  
Council Report

Page - 1  
Date - 03/23/04  
Amount

As of Thursday	Fund	Name	Amount
03/04/04	00100	General Fund	439,608.38
	00123	Info Systems Replacement Fund	329.72
	00160	Electric Utility Fund	2,530,455.23
	00161	Utility Outlay Reserve Fund	25,367.95
	00164	Public Benefits Fund	3,541.01
	00170	Waste Water Utility Fund	12,316.72
	00172	Waste Water Capital Reserve	437,266.70
	00180	Water Utility Fund	4,048.21
	00210	Library Fund	2,222.31
	00234	Local Law Enforce Block Grant	317.21
	00235	LPD-Public Safety Prog AB 1913	5,876.27
	00270	Employee Benefits	16,587.28
	00310	Worker's Comp Insurance	6,491.52
	00326	IMF Storm Facilities	282.00
	00458	Hud-2002/03	344.50
	00501	Lcr Assessment 95-1	51,170.00
	00503	Landscape & Lightng Dist Z-2	154.00
	01211	Capital Outlay/General Fund	8,164.40
	01250	Dial-a-Ride/Transportation	3,569.50
	01410	Expendable Trust	26,545.66
Sum			3,574,658.57
	00183	Water PCE-TCE	80.00
Sum			80.00
Total for Week			
Sum			3,574,738.57

Accounts Payable  
Council Report

Page - 1  
Date - 03/23/04  
Amount

As of Thursday	Fund	Name	Amount
03/11/04	00100	General Fund	484,907.96
	00103	Repair & Demolition Fund	1,014.00
	00123	Info Systems Replacement Fund	2,895.24
	00160	Electric Utility Fund	18,413.85
	00161	Utility Outlay Reserve Fund	760.59
	00164	Public Benefits Fund	13,265.96
	00170	Waste Water Utility Fund	113,803.06
	00171	Waste Wtr Util-Capital Outlay	505.94
	00172	Waste Water Capital Reserve	230,920.08
	00180	Water Utility Fund	42,950.52
	00181	Water Utility-Capital Outlay	72,148.85
	00210	Library Fund	7,340.70
	00234	Local Law Enforce Block Grant	2,136.68
	00270	Employee Benefits	35,141.52
	00310	Worker's Comp Insurance	17,517.77
	00325	Measure K Funds	191,069.79
	00327	IMF(Local) Streets Facilities	7,583.76
	00332	IMF(Regional) Streets	5,433.32
	00410	Bond Interest & Redemption	554,082.29
	01211	Capital Outlay/General Fund	7,153.12
	01212	Parks & Rec Capital	23,734.50
	01250	Dial-a-Ride/Transportation	132,399.54
	01410	Expendable Trust	197,912.81
Sum			2,163,091.85
	00183	Water PCE-TCE	199.41
Sum			199.41
Total for Week			
Sum			2,163,291.26

Accounts Payable  
Council Report

Page - 1  
Date - 03/23/04  
Amount

As of Thursday	Fund	Name	Amount
03/18/04	00100	General Fund	314,963.33
	00103	Repair & Demolition Fund	43.02
	00123	Info Systems Replacement Fund	2,111.90
	00160	Electric Utility Fund	40,666.02
	00161	Utility Outlay Reserve Fund	6,729.54
	00164	Public Benefits Fund	34,490.17
	00170	Waste Water Utility Fund	40,277.58
	00172	Waste Water Capital Reserve	142.04
	00180	Water Utility Fund	4,895.01
	00210	Library Fund	5,131.99
	00211	Library Capital Account	11,621.67
	00234	Local Law Enforce Block Grant	1,484.94
	00235	LPD-Public Safety Prog AB 1913	179.92
	00270	Employee Benefits	10,915.60
	00310	Worker's Comp Insurance	9,353.11
	00320	Street Fund	8,000.00
	00325	Measure K Funds	565.00
	00430	1996 Cop Redemption Fund	1,000.00
	01211	Capital Outlay/General Fund	149,552.47
	01212	Parks & Rec Capital	7,442.00
	01250	Dial-a-Ride/Transportation	136,073.24
	01410	Expendable Trust	221,621.70
Sum			1,007,260.25
	00183	Water PCE-TCE	34,311.35
Sum			34,311.35
Total for Week			
Sum			1,041,571.60

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Date -

03/23/04

Payroll	Pay Per Date	Co	Name	Gross Pay
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-				
Regular	02/29/04	00100	General Fund	791,257.53
		00160	Electric Utility Fund	153,199.10
		00161	Utility Outlay Reserve Fund	4,139.20
		00164	Public Benefits Fund	4,850.08
		00170	Waste Water Utility Fund	64,140.41
		00180	Water Utility Fund	7,730.28
		00210	Library Fund	33,983.88
		00235	LPD-Public Safety Prog AB 1913	1,725.57
		01250	Dial-a-Ride/Transportation	2,751.62
				-----
Pay Period Total:				1,063,777.67
Sum				
	03/14/04	00100	General Fund	834,184.99
		00160	Electric Utility Fund	157,090.78
		00161	Utility Outlay Reserve Fund	1,241.76
		00164	Public Benefits Fund	5,074.34
		00170	Waste Water Utility Fund	60,720.21
		00180	Water Utility Fund	7,552.04
		00210	Library Fund	35,561.56
		00235	LPD-Public Safety Prog AB 1913	1,232.55
		01250	Dial-a-Ride/Transportation	2,931.62
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Pay Period Total:				1,105,589.85
Sum				



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve Minutes

- a) March 3, 2004 (Regular Meeting)
- b) March 9, 2004 (Shirtsleeve Session)
- c) March 9, 2004 (Special Meeting)
- d) March 12, 2004 (Special Meeting)
- e) March 16, 2004 (Shirtsleeve Session)
- f) March 16, 2004 (Special Meeting)
- g) March 22, 2004 (Special Meeting)
- h) March 23, 2004 (Shirtsleeve Session)
- i) March 23, 2004 (Adjourned Special Meeting)
- j) March 25, 2004 (Special Meeting)
- k) March 31, 2004 (Special Joint Meeting with the East Side Improvement Committee)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** That the City Council approve the following minutes as prepared:

- a) March 3, 2004 (Regular Meeting)
- b) March 9, 2004 (Shirtsleeve Session)
- c) March 9, 2004 (Special Meeting)
- d) March 12, 2004 (Special Meeting)
- e) March 16, 2004 (Shirtsleeve Session)
- f) March 16, 2004 (Special Meeting)
- g) March 22, 2004 (Special Meeting)
- h) March 23, 2004 (Shirtsleeve Session)
- i) March 23, 2004 (Adjourned Special Meeting)
- j) March 25, 2004 (Special Meeting)
- k) March 31, 2004 (Special Joint Meeting with the East Side Improvement Committee)

**BACKGROUND INFORMATION:** Attached are copies of the subject minutes, marked Exhibit A through K.

**FUNDING:** None required.

\_\_\_\_\_  
Susan J. Blackston  
City Clerk

SJB/JMP

Attachments

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MARCH 3, 2004**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of March 3, 2004, was called to order by Mayor Hansen at 5:07 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Actual Litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.*, Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees concerning Maintenance and Operators pursuant to Government Code §54957.6

**C-3     ADJOURN TO CLOSED SESSION**

At 5:07 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

**C-4     RETURN TO OPEN SESSION/DISCLOSURE OF ACTION**

At 7:03 p.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), staff requested approval of the status report due on March 8 and approval was granted. In addition, the matter will be further discussed in a continuation of the closed session at the conclusion of tonight's regular meeting.

In regard to Item C-2 (b), no action yet taken; the closed session has been continued to immediately follow the conclusion of tonight's regular meeting.

In regard to Item C-2 (c), no action yet taken; the closed session has been continued to immediately follow the conclusion of tonight's regular meeting.

In regard to Item C-2 (d), negotiation direction was sought from Council and given.

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of March 3, 2004, was called to order by Mayor Hansen at 7:03 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

**B.     INVOCATION**

The invocation was given by Reverend Kevin Suess, Lodi Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hansen.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Police Chief Jerry Adams thanked the awards committee members, provided the following narrative reports and presented the Police Appreciation Awards for 2004 as noted below:

**Teresa Perry ~ Citizen Service Award**

Ms. Perry came upon a motorcycle vs. pick-up traffic accident on Lower Sacramento Road. Other citizens were on scene, but it was Ms. Perry who stepped forward to assist the critically injured motorcyclist until emergency medical personnel arrived. Without Ms. Perry's assistance the motorcycle rider may have suffered greater consequences.

**Grant Plath ~ Citizen Service Award**

Mr. Plath, a Park Program Coordinator for the Lodi Parks and Recreation Department, happened to be conducting business at the Finance Department when he observed a toddler playing in the lobby area. As Mr. Plath was leaving the building he noticed the toddler had strayed away from his mother and went outside. The toddler started for the street as his mother called for him to stop. The toddler continued to move toward the street. Mr. Plath quickly ran and grabbed the toddler pulling him from the path of an oncoming vehicle.

**Scott Bratton ~ Life Saving Citation**

While working patrol, Officer Bratton found a stabbing victim near the City library. The victim had lost a great deal of blood. Officer Bratton quickly provided first aid until emergency medical personnel arrived. Emergency medical personnel stated that the victim may have died if it were not for Officer Bratton's quick aid.

**Mike Kermgard and Mike Manetti ~ Meritorious Service Award**

Officers Kermgard and Manetti devoted a tremendous amount of work to improve the Police Department's Web site.

**Larry Manetti and David Main ~ Chief's Award**

Captains Manetti and Main provided significant contributions toward the recently completed Police Department Building.

**Val Chaban ~ Life Saving Award**

Corporal Chaban responded to a shooting incident between rival gangs and was the first officer on scene. Two victims had been shot, one critically. There was a third victim suffering from facial injuries. Information was that the shooting suspects were in the adjacent residence. Emergency medical personnel would not enter the area due to the risk. Corporal Chaban carried one of the shooting victims out of the area to a safe zone so paramedics could attempt to save the victim's life.

**Charlie Gardella ~ Volunteer of the Year**

Mr. Gardella has served as a Police Partner for over ten years and has volunteered for all activities for which the Partners are responsible.

**Jennifer Root ~ Employee of the Year**

Jennifer Root was hired as a Dispatcher/Jailer in January 1998 and was promoted to a lead position in June 2001. She volunteers for Special Olympics and is the department's liaison. She assists with such benefits as Tip-A-Cop, fire engine pull, summer games, golf tournament, and Buck-for-Badges to aid the Special Olympics. Ms. Root is a trainer for the California Law Enforcement Technology System (CLETS) Computerized Users Group and is currently the Assistant Director for the Northern Chapter. Ms. Root has also participated in the Relay for Life, which aids in the research of cancer.



**John Whisler ~ Officer of the Year**

Officer Whisler has been a police officer for the City of Lodi over 26 years. He earned the Officer of the Year award due to his contributions toward the Major Accident Investigation Team, as a Field Evidence Technician (FET), and School Resource Officer. Officer Whisler has also organized several "Meet the Beat" events, which partnered the Police Department with elementary schools.

Council Member Howard recognized Officer Whisler and Carla Cole, Dispatcher/Jailer, who spoke on the topic of crime scene investigation at last Friday's annual career day hosted by the Lodi Youth Commission at Lodi Academy, at which 800 Lodi Unified School District students attended.

RECESS

At 7:26 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 7:33 p.m.

D. PRESENTATIONS (Continued)

D-2 (a) Mayor Hansen presented a proclamation to Glory Hudson, Learning Link Coordinator, proclaiming the week of March 1 to 6, 2004, as "Learning Link Week" in the City of Lodi.

D-3 (a) Mayor Hansen recognized Parks and Recreation Commissioner Scott Davis with a Certificate of Appreciation for his service as the 2003 Parks and Recreation Commission Chairman. (NOTE: Mr. Davis was unable to attend the meeting.)

D-3 (b) Mayor Hansen recognized former Parks and Recreation Commissioner Victor Schuh with a Certificate of Appreciation for his service as a Parks and Recreation Commissioner. (NOTE: Mr. Schuh was unable to attend the meeting.)

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COMMENTS BY THE PUBLIC ON CONSENT CALENDAR ITEMS

- In reference to Item E-12, Robin Knowlton reported that she was one of over 100 people who attended the two recent Planning Commission meetings, at which the topic of design standards for large retail establishments was discussed. Many of the people attending the meetings had come to request that the Commissioners consider a size limitation on future retail establishments; however, at both meetings the public was denied the opportunity to speak on the issue except during the general public comment period.

In response to Ms. Knowlton, Community Development Director Bartlam stated that the Planning Commission has a meeting scheduled for March 24 to discuss the issue of a size limitation and other possible alternatives. He assured Ms. Knowlton that all interested persons would have an opportunity to speak on the matter.

Council Member Hitchcock believed that the size of a building is an integral part of design standards. She recommended that Council set the public hearing to follow the March 24 Planning Commission meeting and consider both issues at the same time.

Mr. Bartlam replied that it could take several months for the Planning Commission to be prepared to make a recommendation to Council on the size issue. He reported that an application is currently pending on a project, which would be impacted if a size limitation were imposed. The expansions of Raley's Shopping Center and Lakewood Mall both have principle buildings over 25,000 square feet and would be affected by the proposed design standards for large retail establishments.

Mayor Pro Tempore Beckman suggested that Council address the size issue initially, rather than having it go before the Planning Commission.

Council Member Hitchcock preferred that the Planning Commission consider the design standards, including the size issue, and forward its recommendation on both issues to Council.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Howard, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$5,608,732.00.
- E-2 The minutes of February 4, 2004 (Regular Meeting), February 10, 2004 (Shirtsleeve Session), February 10, 2004 (Special Meeting), February 17, 2004 (Shirtsleeve Session), and February 17, 2004 (Special Meeting) were approved as written.
- E-3 Adopted Resolution No. 2004-31 approving the plans and specifications and authorizing advertisement for bids for the Cochran Road Street Improvements from Peach Street to Willow Avenue and authorizing the City Manager to award the contract up to \$50,000.
- E-4 Approved the plans and specifications and authorized advertisement for bids for White Slough Water Pollution Control Facility Year 2004 Improvement Project and authorized the City Manager to purchase construction trailer up to \$21,000.
- E-5 Adopted Resolution No. 2004-32 approving the specifications and authorizing advertisement for bids for White Slough Water Pollution Control Facility purchase of fiberglass effluent troughs and authorizing the City Manager to approve the purchase up to \$15,000.
- E-6 Adopted Resolution No. 2004-33 awarding the purchase of 384 watthour meters to the low bidder, Sensus Metering Systems, c/o Young & Company, of Oakland, in the amount of \$22,963.68.
- E-7 Adopted Resolution No. 2004-34 awarding the purchase of three Digger/Derrick line trucks to Altec Industries, Inc., of Dixon, through its contract with the California Multiple Award Schedule, in the amount of \$609,000.
- E-8 Accepted the improvements under the "Fire Station 1 HVAC Design/Build Project, 210 West Elm Street" contract.
- E-9 "Adopt resolution accepting a portion of the improvements in Almondwood Estates, Tract No. 3273" was ***pulled from the agenda pursuant to staff's request.***
- E-10 Adopted Resolution No. 2004-35 authorizing the City Manager to execute a master professional services agreement for engineering support services with DJH Engineering, of Placerville, for the irrigation system at White Slough Water Pollution Control Facility and appropriated funds in the amount of \$25,000.
- E-11 Set public hearing for March 17, 2004, to consider the Planning Commission's recommendation of approval to the City Council for a Rezoning for 5952 E. Pine Street; the Rezoning is from San Joaquin County A-U, Agricultural Urban Reserve to M2, Heavy Industrial; the request also includes a recommendation that the City Council certify Negative Declaration ND-03-13 as adequate environmental documentation for the project and initiate annexation of the property into the City.
- E-12 "Set public hearing for March 17, 2004, to consider the Planning Commission's recommendation of approval to the City Council to adopt a Zoning Ordinance amendment adding Chapter 17.58 regarding design standards for large retail establishments" was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***

- E-13 Set public hearing for April 7, 2004, to consider adopting resolution adjusting water/wastewater and refuse rates.
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ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-12 "Set public hearing for March 17, 2004, to consider the Planning Commission's recommendation of approval to the City Council to adopt a Zoning Ordinance amendment adding Chapter 17.58 regarding design standards for large retail establishments"

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Beckman second, set public hearing for March 17, 2004, to consider the Planning Commission's recommendation of approval to the City Council to adopt a Zoning Ordinance amendment adding Chapter 17.58 regarding design standards for large retail establishments. The motion carried by the following vote:

Ayes: Council Members – Beckman, Howard, Land, and Mayor Hansen

Noes: Council Members – Hitchcock

Absent: Council Members – None

Discussion ensued about whether public comments regarding a size limitation could be made during the March 17 public hearing regarding design standards. It was ultimately determined that there would be no restriction on public comments.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Bradley Litz stated that he lived across the street from the Vinewood Dog Park. He complained about the following:
  - Dogs are not leashed;
  - When the gates are locked people let their dogs in and around the park and school grounds; and
  - Feces are not picked up and disposed of properly, creating foul order and drawing flies.

Mr. Litz stated that he addressed all of these issues with the Parks and Recreation Department in October 2003 and nothing has been resolved. He questioned whether an environmental study had been done to determine the amount of bacteria that is going into the river from the Vinewood Park water basin from animal feces and urine. He asked that the City relocate the dog park to a site that is not in a residential area in order for property owners to maintain the value of their homes and good air quality.

Mayor Hansen asked the City Manager to look into the matter and report back to Council.

- Sean Burrows agreed with Mr. Litz' comments. Mr. Burrows stated that he has three small children who play outside and expressed concern for their safety due to unleashed dogs in and around the dog park. He reported that on at least three occasions unleashed dogs crossed the street toward his home.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider community input and proposals and adopt resolution for uses of the City's 2004-05 Federal allocation of Community Development Block Grant and HOME Program funds and the reallocation of available funds from previous program years.

NOTE: Due to a potential conflict of interest, Council Member Land abstained from discussion and voting on issues relating to the San Joaquin Housing Authority and the LOEL Foundation. He noted that his employer, F & M Bank, is the owner of the property for LOEL Foundation's senior housing project, and that he serves as a commissioner on the Housing Authority.

Community Development Director Bartlam reported that staff anticipates receiving \$836,133 in Community Development Block Grant (CDBG) funds and \$292,556 in HOME funds from the Federal government. Mr. Bartlam made the following recommendations for CDBG funds:

- \$1,500 – Emergency Food Bank for planning and design costs;
- \$150,000 – Public Works/Engineering for handicap ramp retrofits;
- \$10,000 – Second Harvest Food Bank for food distribution services to low-income residents and seniors;
- \$65,000 – Public Works/Transit for bus shelters and benches on the eastside;
- \$200,000 – Salvation Army for acquisition of property for a new shelter (Mr. Bartlam noted that this represents the remaining balance of the City's \$250,000 obligation);
- Zero – One-Eighty Teen Center for building improvements, denial due to unresolved issues;
- Zero – Senior Service Agency for Meals on Wheels Program; staff has not been able to determine that it meets requirements for CDBG funding;
- Zero – El Concilio for first-time home buyers' classes, not recommended because it is better suited to Housing and Urban Development funding;
- \$112,500 – County Department of Aging for Lodi Community Center property acquisition and site work;
- Zero – Community Medical Centers for building repairs on leased property, which does not qualify for CDBG funds;
- Zero – Boys & Girls Club for nonessential building maintenance and repairs;
- Zero – Child Abuse Prevention Council for First Step Children's Center in Stockton, which does not meet the readiness criteria for spending the funds;
- \$200,000 – Lodi Parks and Recreation Department for Hale and Blakely Parks playgrounds;
- \$28,075 – Fair Housing for services to low-income residents; and
- \$69,058 – CDBG/HOME programs administration costs.

Mr. Bartlam made the following recommendations for HOME funds:

- \$89,875 – Housing Authority for property acquisition; and
- \$202,681 – LOEL Foundation acquisition for senior housing.

Mayor Pro Tempore Beckman pointed out the irony in the fact that if the Federal government did not overtax the citizenry to pay for CDBG and HOME programs there would be a significant savings in administration costs, which would be better served having gone into the projects.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION #1 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously adopted Resolution No. 2004-36 approving the projected use of funds for the 2004-05 Federal allocation of CDBG Program funds (with the exception of the Housing Authority and LOEL Foundation requests).

MOTION #2 / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, adopted Resolution No. 2004-37 approving the projected use of funds for the 2004-05 Federal allocation of HOME Program funds for the Housing Authority and LOEL Foundation requests. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Land

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, unanimously made the following appointments:

Site Plan and Architectural Review Committee

Donald Kundert Term to expire January 1, 2008

Roger Stafford Term to expire January 1, 2008

H-4 Miscellaneous – None

I. REGULAR CALENDAR

NOTE: The following matters were discussed and acted upon out of order.

I-3 "Report to the City Council – Financial Audit for Fiscal Year 2002-03

Receive: 1) The Combined Annual Financial and Single Audit Report and 2) Report on Applying Agreed-upon Procedures"

Finance Director McAthie noted that the implementation of Governmental Accounting Standards Board Statement 34 (GASB34) created challenges in performing the annual audit this year. She introduced representatives of the City's new audit firm Macias, Gini & Company, President Ernest Gini, and Director Scott Brunner.

Mr. Gini reported that his firm audited the financial statements of the City, conducted an audit of the Federal funds as required by the Single Audit Act, and prepared the Appropriations Limit Report that is required by the State Constitution. He noted that Council has received the Comprehensive Annual Financial Report for the year ended June 30, 2003, and the Report to Management (both filed). Mr. Gini explained that the primary objective in the audit of financial statements is to express an opinion on the fairness of the presentation. That opinion provides reasonable assurance that the financial statements were fairly stated; it does not provide absolute assurance. There is the possibility that immaterial misstatements may have occurred and not been detected. The firm also did tests of controls as required by the Single Audit Act of Federal programs. Mr. Gini stated that the biggest part of the challenge this year was the implementation of GASB34, which changed the reporting of all governments in the United States. The Statement of Net Assets encompasses all the assets of the City, including infrastructure and all other capital assets, which had previously been shown in a separate group of accounts. The Statement of Activities is designed to show the cost of the different services provided by the City, which are funded primarily by operating grants and contributions and those that are funded by general revenues of the City. As part of the implementation of the new standard there was a technical bulletin regarding derivatives that the City had engaged in, e.g. interest rate swap executed in order to fix the variable interest rate that the City had on some of its debt and convert it to fixed rate. Mr. Gini noted that those types of transactions are fairly

complex, so all the different risks associated with the interest rate swaps were disclosed in the footnotes. Mr. Gini stated that here are various different types of risks in connection with interest rate swaps and he encouraged Council to read those notations carefully.

In reference to page 11, General Fund, Council Member Land expressed concern with the 39% increase in PERS rates in 2003-04 and 61% increase in 2004-05. Medical costs are increasing 20.9% and Workers' Compensation is increasing 37.4%. Mr. Land recalled reading that the PERS rate of return was 18.3% last year and asked if this would effect the projections. In addition he noted that the State has withheld three months of the Vehicle License Fee backfill totaling \$554,692 beginning August 2003 through October 2003. According to the state Controller's Office, this would be considered a loan. Mr. Land expressed apprehension that this "loan" would be repaid.

Mr. Brunner explained that the increase in the PERS rate of return would affect the City's contributions in the future. The City is now seeing the effects of the bad years with the market, which results in increased contributions to the PERS system.

Mr. Gini clarified that on the financial statements for 2003 the contributions for that year were based on the actuarial valuation that ended June 30, 2000. The June 30, 2002 and 2003 valuations are the ones that will be reflected in next year's contribution and the year after. He believed those would show increases in contribution rates because of the stock market declines. Results from the 18.3% referred to by Mr. Land would not be reflected in the City's contribution rates until June 30, 2006 or 2007.

In response to Council Member Land, Mr. Brunner pointed out that pages 22 and 23 show the financials of the Electric Utility fund. The net assets of the Electric Fund increased by \$3.5 million this past year.

Council Member Land asked whether any of the proposed Wastewater Fund rate increases were to pay for costs related to the Environmental Abatement Program (EAP) PCE/TCE cleanup. He also noted that the Water Fund balance decreased from \$2.5 million to \$350,000. He recalled that in the last three and a half years no money from the Water Fund was used for litigation, and asked where the money had been spent.

City Manager Flynn replied that the proposed Wastewater rate increases are only for the requirements being imposed from the State to upgrade the White Slough facility. He explained that the decrease in the Water Fund was due to some major projects and infrastructure improvements. Ms. McAthie added that the Water Fund cash flow situation is also affected by the time lag between when EAP bills are paid and the quarterly draw downs are made.

Council Member Hitchcock noted that the Other governmental fund, which includes Transportation Development Act funds, is borrowing from the Capital Outlay reserve fund. She was not aware that Council approved street projects in the amount of \$763,000 out of that budget.

Ms. McAthie explained that, if at the end of the fiscal year, the City is in a negative cash position in any fund, it must borrow the money from another fund and show it as a short term "due to, due from" from another fund. It is usually paid back within 60 days at the end of the fiscal year.

Ruby Paiste, Accounting Manager, reported that the Capital Outlay reserve fund also includes impact fees, general administration, and Parks and Recreation. She acknowledged that funds were lent to the Lower Sacramento Road project.

Council Member Hitchcock pointed out that \$2 million was borrowed from the Electric Fund and asked what it was for.

Ms. Paiste explained that a provision exists in the budget to transfer \$350,000 from the Electric fund for capital contributions. This amount is in addition to the 12% in lieu of tax transfer. It is recorded as a loan from Electric to General Capital.

Council Member Hitchcock suggested that this matter be further discussed in the future, as she felt that it burdens ratepayers for capital projects that have nothing to do with Electric funds. She also noted that \$889,000 was borrowed from the Water Fund to put into the Transit Fund.

Mr. Brunner stated that it was for financial statement presentation purposes only, because the City is not allowed to present a negative cash position in a fund.

Council Member Hitchcock asked how much of the \$9 million borrowed has been paid back, to which Ms. Paiste replied she would conduct an analysis and report her findings to Council.

Mr. Gini stated that some of the balances outstanding as of June 30 represent short-term loans, but others, like the Electric Fund, represent long-term loans. He recommended that they be segregated for better visibility of numbers, as to when they are going to be paid back. He suggested that one solution to the problem on the long-term loans would be to charge interest so that the ratepayers are earning something on it. Mr. Gini explained that during the audit, when a misstatement to the financial statements is found, it is included in the Schedule of Uncorrected Misstatements.

Council Member Hitchcock suggested that a Shirtsleeve Session be held to review and discuss the Schedule of Uncorrected Misstatements. In addition, Ms. Hitchcock noted that the adopted budget indicates that revenues were \$30.3 million, and expenditures were \$34.2 million. It is balanced out with Other Sources and Uses in an amount of \$4.4 million. She expressed concern that the City is not fully disclosing to the public what Other Sources and Uses represents. A general description is shown, e.g. carryover of unexpended unencumbered funds, value of E-step versus the actual, anticipated additional revenues, labor relations, etc., but there is no breakdown of the individual amounts totaling \$4.4 million. She read the following statement from page 8, *"The deficit in the Transit fund resulted from not only overages/underfunded capital projects, but also due to a reduction of overall revenue, creating shortages in the operations account as well. Staff is now working on several ways to eliminate the deficit. One of these options would be to request a loan from the Measure K Transit account."*

Public Works Director Prima acknowledged that there is a problem with the Transit fund and it involves the Transportation Development Act (TDA) fund as well, having to do with transfers made back and forth for street projects. He reported that staff has moved money through the years between TDA and Transit for projects, in anticipation of receiving Federal funding for capital projects that was overly optimistic. He reported that Measure K has a special funding category set up for advances on projects, which staff is considering to help resolve the current situation. He stated that some of the projects that were spent out of TDA could have been funded through impact fees, but were not, and now staff is looking at transferring that expense to the impact fee fund. He assured Council that staff would resolve the issue in this fiscal year. The current deficit in the Transit fund is approximately \$1.5 million.

In reply to Council Member Hitchcock, Ms. McAthie explained that the investment revenue was not as projected because of a combination of having less cash to invest and a drop in the interest rate.

In response to Council Member Hitchcock, Interim City Attorney Schwabauer clarified that the question addressed in the second paragraph on page 70 refers to a claim for fees by Envision Law Group. It was his understanding that the \$6.8 million claim is contingent upon the outcome of the EAP litigation. Envision billed the City for a percentage of services rendered under a three-tiered system. The remaining percentage was accrued, but not to be paid until the litigation was settled. Under the agreement, if there is no settlement, there would be no payment due to Envision.

MOTION / VOTE:

There was no Council action necessary on this matter; information was received for file.

RECESS

At 10:10 p.m., Mayor Hansen called for a recess, and the City Council meeting reconvened at 10:18 p.m.

I. REGULAR CALENDAR (Continued)

- I-1 "Updates from Mayor Larry Hansen regarding the following issues: 1) Barger & Wolen audit of Envision Law Group's billings; 2) progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation; and 3) legal proceedings relative to the Environmental Abatement Program litigation"

Mayor Hansen reported that Public Works Director Prima has sent out a Request for Qualifications in an effort to obtain a new technical consultant for the City. Council will need to decide whether to hire a new technical consultant separately, or to allow the new legal team to bring in a firm they are comfortable working with. An outcome from the settlement hearings with mediator Lester Levy was that an independent person has been brought in to give a second opinion on the work plan that has been done by defendants from Guild Cleaners.

Council Member Land asked who would be paying for the second opinion on Guild Cleaners' strategy.

Mayor Hansen replied that the City would share some of the cost; however, it was the mediator who hired him. He also confirmed that the Department of Toxic Substances Control must approve the remedial action plan.

Council Member Hitchcock emphasized the importance of Council checking the references of the technical consultants prior to making a hiring decision.

MOTION/ VOTE:

There was no Council action necessary on this matter.

- I-2 "Receive report from the Boosters of Boys/Girls Sports Review Committee"

City Manager Flynn commented that Council is to receive the report from the Boosters of Boys/Girls Sports (BOBS) Review Committee and it will then be forwarded to the Parks and Recreation Director for review and appropriate recommendations.

Committee Chairman Bob Johnson recalled that the former City Attorney opined that the City has no control over the BOBS. He believed that as long as that position remains unchanged, the only thing that might change the contentious situation that created the problems would be public pressure.



Mayor Hansen stated that he would like a second opinion about that issue from the Interim City Attorney and outside counsel, Kronick Moskovitz Tiedemann & Girard. He expressed hope that the Committee's recommendations could be implemented.

Interim City Attorney Schwabauer stated that, as a contractual issue, the City has the power to set standards by which, and with whom, it does business.

Council Member Hitchcock asked Mr. Schwabauer to draft a new contract incorporating the Committee's recommendations.

Mr. Johnson reviewed the Final Report of Committee Activities (filed). He stated that the Committee felt strongly that all current and future BOBS Board members should meet the background investigation and fingerprint requirements that are required of all volunteer coaches. Past Board members have confirmed that BOBS meetings were open to the public and there was an appeal process in place for disputes. Its minutes are also available to the public. The Committee recommended that BOBS staff liaison, Tom Alexander, not be a voting member of the Board. He indicated that this change has already taken place. Some part-time Parks and Recreation Department staff sit on the BOBS Board and serve as volunteers, which the Committee did not see as a conflict. The Committee and the BOBS both agreed that it was inappropriate for the City and the BOBS to share the same mailing address. The BOBS have secured a post office box for its purposes. In addition, they both agreed that it was unsuitable for the City liaison to be listed as the contact to receive legal documents on behalf of the BOBS. A BOBS Board member has now been assigned this responsibility. The Committee has also recommended that BOBS update and improve its Web site. Both the BOBS and the Parks and Recreation Director agree that the following statement in the 1987 agreement between the City and the BOBS should be eliminated, "the Parks and Recreation Director is authorized to assign and direct the members of the BOBS." The only suggestion that was received by the Committee from a member of the public was that an audit of the BOBS account should take place periodically to provide public confidence. The BOBS has agreed to do this and will pay the cost. Funding for scholarships will be contributed by the BOBS, Parks and Recreation, and the Lodi Sports Foundation. The BOBS, through its programs, has insurance that covers participants and provides errors and omissions insurance for its Board members. The Committee recommends that the City continue to provide an insurance indemnification for the BOBS because it is also being utilized by other groups.

At the request of Council Member Hitchcock, Interim City Attorney Schwabauer stated that he would ask the City's Risk Manager to prepare a comprehensive list of entities that the City provides indemnification for.

PUBLIC COMMENTS:

- Ron Bernasconi stated that he had reviewed all the minutes of the Committee's meetings and encouraged the Council to do so as well. He recalled that at the November 10, 2003 Special Joint City Council meeting with the Recreation Commission, former Parks and Recreation Director DeBenedetti informed Council that the lines of authority, control, custom, and practice between the City and the BOBS had worked well over time. Previous Directors were very involved in the BOBS and actively addressed problems when they arose. Mr. Bernasconi strongly encouraged Council not to remove the following statement, which is included in the 1987 agreement, "It is acknowledged and agreed that the Director of the City's Parks and Recreation Department shall be the authorized person to assign and direct the members of BOBS in their participation of the sports and recreation programs of City." Mr. Bernasconi believed that the statement makes the City's delegation of authority to the BOBS legal. The BOBS bylaws establish that its specific purpose is to act as an advisor to the Parks and Recreation Department. The Committee's minutes reflect that BOBS Board member Rick Castelanelli stated that the City can mandate changes to

the BOBS at any time and the BOBS bylaws allow for the board to dismiss a board member. Mr. Bernasconi noted that the Committee recommended that the City continue to indemnify the BOBS; however, at the Committee meeting of February 17, Jim Martin stated that if it meant being under the City's authority, then the Board would reject indemnification by the City. Mr. Bernasconi believed that this represented the mindset that was harming the BOBS organization. He felt that in order for the City's agreement with the BOBS to be valid it must retain sufficient control over the operations. He was not in favor of the BOBS having a separate address, because it is an extension of the Parks and Recreation Department. He provided Council with a packet of information (filed), in which a copy of a letter to Bob Asklof gave an overview of the practices in terms of the handling of grievances, complaints, etc. Mr. Bernasconi believed that given the enormous liability that can be created by an entity, which is acting on public property on behalf of the City, they must have reciprocal indemnifications and based on lawful conduct without negligence. He contended that the BOBS Board meetings are not always open to the public. He stated that the City has the ability to appoint one voting member and should strengthen the authority of the Parks and Recreation Director to administer Lodi youth sports programs. He suggested that the City return to the model that was in existence under former Directors DeBenedetti and Williamson, with delineated authority and open governance of public assets so that people would have better oversight authority. In conclusion, Mr. Bernasconi stated that he agreed with the recommendations of the Committee with the exception of those that tend to sever the relationship between the City and the BOBS, or move it farther apart.

In reply to Council Member Hitchcock, Mr. Schwabauer suggested that he ask an attorney from the firm of Kronick Moskovitz Tiedemann & Girard to draft a contract, which could be brought back to Council for consideration in approximately three weeks.

Mayor Hansen offered the following alternatives: 1) continue the relationship with the BOBS as it is currently and make no changes, 2) totally sever the relationship with the BOBS and make them a separate entity, or 3) bring them under the umbrella of the City. Mr. Hansen was opposed to spending funds for outside counsel to draft a new contract and preferred that the matter wait until the Interim City Attorney or new City Attorney have time to prepare it.

Council Member Hitchcock suggested that Mr. Schwabauer obtain an Attorney General's opinion before the contract is amended regarding whether the City has the ability to sever the relationship with the BOBS and what liability there is.

Mr. Schwabauer expressed doubt that the Attorney General's Office would provide an opinion on a purely private issue, i.e. whether the City has civil liability for the actions of the BOBS. He stated that, as a legal matter, the City can sever itself from the BOBS.

Council Member Hitchcock clarified that she did not think the Council wanted to sever the relationship with the BOBS. She recommended that Mr. Schwabauer communicate with the Parks and Recreation Department, consider the legality of the current relationship between the City and the BOBS, and amend the contract accordingly. Also she asked that Mr. Schwabauer make a recommendation to Council as to whether the BOBS should be under the City's umbrella.

Mayor Hansen asked Mr. Schwabauer to consider the three options he previously iterated, outline the pros and cons, and report back to Council by its regularly scheduled meeting on May 19.

Mayor Pro Tempore Beckman and Council Member Howard agreed that funds should not be expended for outside counsel to analyze the issue and/or amend the contract.

MOTION / VOTE:

There was no Council action taken on this matter.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Hansen, Beckman second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

I. REGULAR CALENDAR (Continued)

- I-4 "Introduce ordinance repealing and reenacting Lodi Municipal Code §16.40.050 establishing subdivision reimbursement agreements for construction"

Public Works Director Prima explained that this ordinance would change the reimbursement agreement public hearing notification requirement from registered mail to regular first-class mail. He confirmed that there is no legal requirement for the notifications to be sent via registered mail.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Beckman, Howard second, unanimously introduced Ordinance No. 1743 repealing and reenacting Lodi Municipal Code §16.40.050 establishing subdivision reimbursement agreements for construction.

- I-5 "Introduce ordinance amending Title 9 – Public Peace, Morals and Welfare, Chapter 9.08, 'Offenses Against Property,' by repealing and reenacting Section 9.08.150 of the Lodi Municipal Code relating to vehicles"

Interim City Attorney Schwabauer stated that an error was made when originally drafting an amendment to this section of the Lodi Municipal Code. On January 21, 2004, the ordinance was adopted with the language, "Vehicles parked in violation of this requirement shall be removed at the vehicle owner's expense." The language should have read "may" be removed. This change would allow Police Officers to cite the vehicles one day and return a day or two later giving the owners the opportunity to remove their vehicle(s), and then proceed to have the vehicles towed that still remain. The amendment also allows flexibility for the Police Officers, in that they would not be required to stay and wait for the tow truck and immediately proceed with towing the vehicle.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously introduced Ordinance No. 1744 amending Title 9 – Public Peace, Morals and Welfare, Chapter 9.08, "Offenses Against Property," by repealing and reenacting Section 9.08.150 of the Lodi Municipal Code relating to vehicles.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard reported that at its February meeting the San Joaquin Council of Governments (SJCOG) Board supported the concept of placing Measure K on the ballot in November. In order for this to be accomplished, there must be an approved expenditure plan. She asked a Council representative to attend the March 19 SJCOG meeting in her absence, at which the Measure K expenditure plan would be discussed.

- Mayor Pro Tempore Beckman submitted to Council a document entitled "Proposed Lodi Greenbelt – recharge pond concept" (filed). Mr. Beckman reported that he had discussed the idea with representatives of East Bay Municipal Utility District, the City of Stockton, and agricultural interests including the Farm Bureau, and Woodbridge Irrigation District (WID). During these discussions no one had indicated opposition and many expressed support of the concept. In summary, the concept is to resell the water Lodi is purchasing from WID and use the proceeds to purchase land between Lodi and Stockton for the purpose of a community separator and use the land as recharge ponds to get the water back into the ground. He asked Ms. Hitchcock to bring the matter to the Greenbelt Task Force for its consideration.
- Mayor Hansen reported that 30 Requests for Information – Legal Services packets were mailed to interested law firms and 16 responses have been received. He and Ms. Hitchcock will review the proposals, narrow them down, and Council can then begin the interview process.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Janet Keeter's birthday is March 29. He expressed staff's condolences to Council Member Hitchcock on the recent loss of her father.
- Interim City Attorney Schwabauer reported that he learned today that Envision Law Group had been suspended as a law corporation since the summer of 2000. The effect is that they do not have limited liability and therefore would be treated as a law partnership. Individual owners would have full liability for the firm and would not have the protection of a limited liability partnership.

ADJOURN TO CLOSED SESSION

At 11:43 p.m., Mayor Hansen adjourned the meeting to the continued Closed Session to discuss the following matters.

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- d) Conference with Labor Negotiator, Human Resources Director Joanne Narloch, regarding Association of Lodi City Employees concerning Maintenance and Operators pursuant to Government Code §54957.6

The Closed Session adjourned at 1:04 a.m.

RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 1:04 a.m., Mayor Hansen reconvened the City Council meeting, and Interim City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), direction was provided by Council.

In regard to Item C-2 (b), direction was provided by Council.

In regard to Item C-2 (c), direction was provided by Council.

NOTE: Disclosure regarding Item C-2 (d) was reported prior to the regular meeting.

*Continued March 3, 2004*

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:04 a.m., Thursday, March 4, 2004.

ATTEST:

Susan J. Blackston  
City Clerk

**CITY OF LODI  
INFORMAL INFORMATIONAL MEETING  
"SHIRTSLEEVE" SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 9, 2004**

The March 9, 2004, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Susan J. Blackston  
City Clerk

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 9, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 9, 2004, was called to order by Mayor Hansen at 7:00 a.m.

Present: Council Members – Beckman, Hitchcock, Howard, Land, and Mayor Hansen

Absent: Council Members – None

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

CITY COUNCIL CALENDAR UPDATE

City Clerk Blackston reviewed the weekly calendar (filed).

NOTE: The following items were discussed and acted upon out of order.

D. REGULAR CALENDAR

- D-1 “Reschedule public hearing to consider adopting resolution adjusting water/wastewater and refuse rates from April 7, 2004, to a Special City Council meeting on Tuesday, April 27, 2004, at 7:00 p.m.”

Wally Sandelin, City Engineer, explained that the purpose for rescheduling the public hearing is to meet the procedural requirements of Proposition 218, which requires a 45 day advance notice to the public. In addition, this date will meet a funding deadline that the City is facing related to the White Slough program.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Beckman second, unanimously rescheduled the public hearing to consider adopting resolution adjusting water/wastewater and refuse rates to a Special City Council meeting on Tuesday, April 27, 2004, at 7:00 p.m.

B. CLOSED SESSION

At 7:05 a.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following items.

- B-1 Actual Litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al.*; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- B-2 Actual litigation: Government Code §54956.9(a); one case; *Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al.*, Superior Court, County of San Francisco, Case No. 323658
- B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- B-4 Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9, one case. Pursuant to Gov. Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed.

The Closed Session adjourned at 8:40 a.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 8:40 a.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that there were no reportable actions taken during closed session.

*Continued March 9, 2004*

E. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:41 a.m.

ATTEST:

Susan J. Blackston  
City Clerk



**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
FRIDAY, MARCH 12, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 12, 2004, was called to order by Mayor Hansen at 7:03 a.m.

Present: Council Members – Beckman, Hitchcock, Land, and Mayor Hansen

Absent: Council Members – Howard

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. CLOSED SESSION

At 7:03 a.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658

B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases

B-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

NOTE: Council Member Land left the Closed Session at 8:05 a.m.

The Closed Session adjourned at 8:26 a.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 8:26 a.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that settlement authority was requested and given.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:26 a.m.

ATTEST:

Susan J. Blackston  
City Clerk

**CITY OF LODI  
INFORMAL INFORMATIONAL MEETING  
"SHIRTSLEEVE" SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 16, 2004**

The March 16, 2004, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Susan J. Blackston  
City Clerk

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 16, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 16, 2004, was called to order by Mayor Hansen at 7:04 a.m.

Present: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Absent: Council Members – Land

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. CLOSED SESSION

At 7:08 a.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658

B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases

B-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

The Closed Session adjourned at 7:44 a.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:45 a.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that Council agreed to associate Kronick Moskowitz Tiedemann & Girard into all cases as counsel of record.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 7:45 a.m.

ATTEST:

Susan J. Blackston  
City Clerk

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
MONDAY, MARCH 22, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 22, 2004, was called to order by Mayor Hansen at 7:11 a.m.

Present: Council Members – Beckman, Hitchcock, and Mayor Hansen

Absent: Council Members – Howard and Land

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and Deputy City Clerk Perrin

B. CLOSED SESSION

At 7:11 a.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

- B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- B-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

The Closed Session adjourned at 7:59 a.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 8:03 a.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that there was no reportable action and that the meeting had been continued to Tuesday, March 23, 2004, at 7:00 a.m.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 8:03 a.m. to Tuesday, March 23, 2004, at 7:00 a.m.

ATTEST:

Jennifer M. Perrin  
Deputy City Clerk

**CITY OF LODI  
INFORMAL INFORMATIONAL MEETING  
"SHIRTSLEEVE" SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 23, 2004**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 23, 2004, commencing at 7:02 a.m.

**A. ROLL CALL**

Present: Council Members – Beckman, Hitchcock (arrived at 7:03 a.m.), Land, and Mayor Hansen

Absent: Council Members – Howard

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and Deputy City Clerk Perrin

**B. CITY COUNCIL CALENDAR UPDATE**

Deputy City Clerk Perrin reviewed the weekly calendar (filed).

**ADJOURNED SPECIAL CITY COUNCIL MEETING**

At 7:04 a.m., Mayor Hansen adjourned the Shirtsleeve Session to the Adjourned Special City Council meeting (*from Monday, March 22, 2004*) (NOTE: refer to the Adjourned Special City Council meeting minutes of March 23, 2004).

The Shirtsleeve Session meeting reconvened at 7:10 a.m.

**C. TOPIC(S)**

C-1 "Discussion regarding the Lodi Animal Shelter"

City Manager Flynn stated that staff has been exploring ways to build an animal shelter and to make animal services self-supporting. Mr. Flynn read from a Lodi News-Sentinel article dated March 10, 1906, in which the City imposed an animal license fee not exceeding \$2 on every male dog and \$4 on every female dog owned or harbored within the City limits. This fee was still in place in 1991, and nothing had been done over many years to make animal services self supporting. Staff is now suggesting that a reorganization take place wherein animal services is placed under Electric Utility on a temporary basis in order to make it an enterprise activity. Much of the focus has been on the pick up and disposal of animals, as opposed to providing a service that meets the humane needs of protecting domestic animals. Mr. Flynn read notable quotes of Lodi's history (filed) on how the City has funded projects.

With the aid of a handout (filed), Mr. Flynn reviewed the last 20 years of in-lieu of tax transfers between the enterprise funds and the general fund, demonstrating that the City's current process is not unusual. From 1985-86 through 1994-95, 16% of money transferred from the enterprise funds contributed to the operating expenses of the general fund, representing 16% of the enterprise revenues. From 1995-96 through 2004-05, the amount of money used by the enterprise funds to fund the general fund was 21%; however, the amount of money actually taken in was only 12%; therefore, the impact on the enterprise funds has been decreasing over the last ten years. Significant progress has been made in terms of using enterprise funds to fund public services and projects. Mr. Flynn acknowledged that fees charged for domestic animals would not pay for an animal shelter, but believed that if collections were improved there would be sufficient revenue to provide the kind of services that the community needs.

Staff has met with the Animal Shelter Task Force regarding the shelter and what can be done to improve services. Because of the State's financial crisis and the lack of funds in the general fund, the animal shelter project has come to a halt. Staff looked at examples of other communities and how they handle animal services: some are under the police department, others in public works (seen as a facility) or parks and recreation (serves as a public program). Lodi may be the first community suggesting the idea of putting animal services under Electric Utility. Part of the reasoning is that Electric Utility has money that could be used to build an animal shelter, including \$17 million that was borrowed for electric projects and its fund balance of \$6 million. The City needs an active humane society to contribute to the City's programs and a system where pet owners pay for their pets. Normally, the police department is an enforcement organization and is accustomed to consuming general fund dollars in order to deliver services. This proposal requires a different mind set, in which those involved in animal services recognize it as an enterprise that would be self supporting with the burden on those who benefit from the service provided.

Electric Utility Director Vallow stated that the end results would be new facilities, enhancement of services, and self-sufficiency. In considering the facilities being planned at the new Municipal Service Center, an idea formed that it could be redesigned as a multi-service center. Staff looked at the common elements and discovered that the cost of expanding a facility from 20,000 to 30,000 square feet is less expensive than building two separate facilities. The question to answer is can an existing function that is fully funded from the general fund transition to an enterprise type of function. There is also the issue relating to enforcement versus animal care functions. Mr. Vallow added that the Supreme Court ruled that police departments should not have an enterprise fund make up. He requested endorsement from Council to take this plan to the next step and redesign the facilities as a common structure, which could cut 30% to 40% from the capital costs and conserve space; for example, an additional two acres could be dedicated, without hindrance to Electric Utility, for animal functions.

Police Chief Adams stated that prior to 1993-94, the City operated a pound, which evolved to what is known today as animal services. The goal is to increase the number of adoptions and institute a "no-kill" policy, which cannot be accomplished in the current inadequate shelter. With regard to the enforcement aspect, Chief Adams did not envision Electric Utility staff issuing tickets—there would be cross transfer and connection between the Police Department and animal services; however, Electric Utility's strong marketing skills could help market programs to make animal services self sufficient. The animal services staff works in deplorable conditions and this would be a solution to the problem.

In response to Council Member Hitchcock, Mr. Flynn replied that staff is looking for thoughts and ideas from Council in order to put together a plan. It would most likely not come back to Council at its next meeting, as further research is necessary.

Mr. Vallow added that he envisioned returning to Council in April for authorization to spend a moderate amount of money to get a conceptual plan/redesign of the electric and animal services facilities.

Mayor Pro Tempore Beckman commented that there are two issues as he sees it: 1) structurally, where the animal services is going to be and whether it is going to be attached to the Electric Utility building, which would be a cost savings, and 2) operationally, what department would it be under.

In response to Mr. Beckman, Police Chief Adams stated that he was not aware of the Supreme Court decision that Mr. Vallow alluded to earlier; however, he is aware of criminal law sections that state police departments are not to have quotas or enforcement activities that raise money. Police departments do not look at citations, arrests, or fines through the courts as revenue generators; rather, law enforcement is a way to get voluntary compliance with the law.

In answer to Mr. Beckman, Mr. Vallow stated that he does not see the current functions being different in terms of reporting relationships or underlying philosophies because of the enforcement aspect. There will be new activities for marketing and community involvement that will be enterprise oriented.

City Manager Flynn added that there are non-public safety elements that will need to be looked into further, such as spaying/neutering, taking vicious, ill, or loose animals off the streets, educating families as to proper care of animals, and training. Staff will come back with a plan to show how this can be a stand-alone operation. In some communities, cities provide the shelter and contract with the SPCA or Humane Society to provide the services. In others, the Humane Society helps fund the city's programs.

Mayor Pro Tempore Beckman stated that he was in favor of the structural, physical location of the building, but not in favor of the organizational aspect.

Council Member Land agreed that the current shelter conditions are deplorable. He requested that an organizational flow chart, which shows who will report to whom, who will provide the training, etc., be presented to Council before discussions on the structure and enterprise fund issues are explored.

Mayor Hansen concurred that a business plan be put together for Council to consider at a regular meeting, which contains some of the concepts, the cooperative effort of sharing the facility, and costs. Mr. Hansen expressed concern that this might be confusing to citizens who do not understand the separation of City operations in terms of the funds and revenue streams, especially in light of the budget concerns.

In response to Mayor Hansen, Mr. Vallow replied that the timeline is to have either the old design or a new design within the next four to five months, and if the projects can be combined, the buildings could be occupied within two years.

PUBLIC COMMENTS:

- Sue Pixler, Chairperson of the Animal Shelter Task Force, agreed that this is a very interesting idea and is still in the formation stages. She expressed concern about tying it down to a specific plan at this point. She gave the example of Livermore, where the animal control officers are under the control of the police department, but the animal shelter (kenneling, animal care, and adoption functions) are run by non-police staff. Since the Animal Shelter Task Force's creation in 2001, it has attended over 20 City Council and Shirtsleeve Session meetings regarding the animal shelter facility, and four times the City Council has voted to move forward with the new shelter, which halted with the budget problems. She did not want to revisit any of the issues that had been belabored over the past several years. The opportunity for the facility exists with Electric Utility, and she encouraged Council to see what comes out of the discussions before settling on a definite outline on the operations.

**D. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS**

None.

**E. ADJOURNMENT**

No action was taken by the City Council. The meeting was adjourned at 7:58 a.m.

ATTEST:

Jennifer M. Perrin  
Deputy City Clerk

**LODI CITY COUNCIL  
ADJOURNED SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 23, 2004  
*Adjourned from Monday, March 22, 2004***

A. CALL TO ORDER / ROLL CALL

The Adjourned Special City Council meeting of March 23, 2004 (*adjourned from Monday, March 22, 2004*), was called to order by Mayor Hansen at 7:04 a.m.

Present: Council Members – Beckman, Hitchcock, Land, and Mayor Hansen

Absent: Council Members – Howard

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and Deputy City Clerk Perrin

B. CLOSED SESSION

At 7:04 a.m., Mayor Hansen adjourned the Adjourned Special City Council meeting to a Closed Session to discuss the following matters:

- B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- B-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

The Closed Session adjourned at 7:09 a.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:10 a.m., Mayor Hansen reconvened the Adjourned Special City Council meeting, and Interim City Attorney Schwabauer disclosed that no reportable action was taken on Items B-1 through B-4.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 7:10 a.m.

ATTEST:

Jennifer M. Perrin  
Deputy City Clerk



**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
THURSDAY, MARCH 25, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of March 25, 2004, was called to order by Mayor Hansen at 8:06 p.m.

Present: Council Members – Beckman, Hitchcock, and Mayor Hansen

Absent: Council Members – Howard and Land

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and Deputy City Clerk Perrin

B. CLOSED SESSION

At 8:06 p.m., Mayor Hansen adjourned the Special City Council meeting to a Closed Session to discuss the following matters:

- B-1 Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- B-2 Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- B-3 Conference with legal counsel – initiation of litigation: Government Code §54956.9(c); two cases
- B-4 Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

The Closed Session adjourned at 9:00 p.m.

C. RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 9:03 p.m., Mayor Hansen reconvened the Special City Council meeting, and Interim City Attorney Schwabauer disclosed that staff requested direction on Items B-1 through B-4 and direction was given.

D. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:04 p.m.

ATTEST:

Jennifer M. Perrin  
Deputy City Clerk

**LODI CITY COUNCIL  
SPECIAL JOINT CITY COUNCIL MEETING  
WITH THE EAST SIDE IMPROVEMENT COMMITTEE  
100 EAST PINE STREET, LODI  
WEDNESDAY, MARCH 31, 2004**

The March 31, 2004, Special Joint meeting of the Lodi City Council and East Side Improvement Committee was canceled.

ATTEST:

Susan J. Blackston  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Report of the Sale of Scrap Metal

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Electric Utility Director

**RECOMMENDED ACTION:** Information only. This report is made to the City Council in accordance with Lodi Municipal Code §2.12.120.

**BACKGROUND INFORMATION:** On January 7, 2004, the City Council authorized the sale of scrap wire and metal which accumulates in the course of normal utility operations during 2004.

In the first sale of the year, the Purchasing Division sent Requests for Bids for the following amounts of scrap wire:

Bare and Insulated Aluminum	5,339 lbs.
Bare and Insulated Copper	2,457 lbs.
Insulated Al/Concentric Copper	4,053 lbs.

Bid forms were sent to three scrap metal dealers, one of whom responded prior to the February 27 deadline for submittal of bids:

Sunshine Steel Ent., Sacramento	\$5,103.40
Simsmetal, Stockton	No response
Delta Scrap Metals, Stockton	No response

The sale to the sole bidder, Sunshine Steel Enterprises of Sacramento, was completed on March 23, 2004.

**FUNDING:** None required. Revenue generated: \$5,103.40  
Account Credited: 1601.5391

\_\_\_\_\_  
Alan N Vallow, Electric Utility Director

Prepared by Joel Harris, Purchasing Officer

cc: Manager, EUD Engineering and Operations

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve specifications and authorize advertisement for bids for steel streetlight standards (EUD)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Electric Utility Director

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**RECOMMENDED ACTION:** That the City Council approve the specifications and authorize advertisement for bids for the purchase of up to 100 galvanized steel streetlight poles.

**BACKGROUND INFORMATION:** The Electric Utility Department's Engineering Division has prepared work orders to continue with the 5-year program of replacement of streetlight poles which are found during inspections to be structurally below standard.

The current work orders call for replacement of 65 poles. Because of rising steel prices staff is reviewing future requirements and may recommend covering those needs with purchase of up to 100 poles, the total quantity included in the 2003-2005 budget. The final recommended purchase quantity will be presented to the City Council on May 5.

**FUNDING:** Electric Utility Department 2003-2005 Financial Plan and Budget,  
Business Unit 161674, Pages E-4 and E-47  
Estimated Cost: \$60,000

**BID OPENING:** April 20, 2004

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Alan N Vallow, Electric Utility Director

Attachment: Specifications  
Prepared by Joel Harris, Purchasing Officer

cc: Manager, EUD Engineering and Operations

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

**STEEL STREETLIGHT STANDARD**  
**30-FT MOUNTING HEIGHT****1.0 SPECIFICATIONS**

The Steel Standard shall be equivalent in size and shape to the "Valmont" Cat. No. DS50-750A270-8S-GV

The standard shall be/have:

- Round tapered shaft with a welded anchor base plate and welded flange for a bolted arm attachment. The taper (O.D.) of the pole shall range from 7.5" to 3.7", approximately, base to top.
- Hot-dipped galvanized finish per ASTM A123.
- Equipped with a 4" by 6.5", nominal, reinforced rim, handhole located along the vertical centerline of the arm's mounting flange 1' to 2' above the anchor base plate. Handhole shall be free of sharp edges or points. Stainless steel socket flush head cap screws (Allen type) to be supplied with each handhole cover. The handhole cover shall be attached to the pole utilizing two screws, i.e. one top and one bottom of handhole cover as viewed in the installed position.
- Equipped with ground lug accepting #6 AWG copper conductor accessible through the handhole only.
- Supplied with a pole-top cap secured with set screws or set bolts.
- Designed to yield a 30' nominal luminaire mounting height with the specified arm.
- Manufactured with a welded (top and bottom) anchor base plate. The base plate shall be of ASTM A36 steel plate and shall be capable of withstanding full bending moment of the shaft. The base shall accept a bolt circle range from 10" to 11" in diameter, i.e. having a slotted bolt hole.
- Supplied with four (4) hot dipped galvanized L-type anchor bolts, 1" x 36" x 4" and anchor bolt cover. The bolt cover shall be the "full base cover" type having a two-piece assembly secured together with two fasteners.
- Supplied with one 8' long arm. The upsweep (rise) height of the arm shall be 3' nominal. The arm to pole connection shall have a rain-tight fitting and be the bolted type. The arm shall accept a luminaire slip fitter with 1¼" through 2" IPS pipe size range (1.660-2.276 in. O.D.)

**2.0 SHIPMENT and DELIVERY**

Poles shall be shipped via flatbed truck. Truck delivery shall be made to the City of Lodi Municipal Service Center, 1331 South Ham Lane, Lodi, California, only during normal receiving hours, 8:00 a.m. - 4:00 p.m., Monday through Friday, excluding holidays. Carrier is required to call 24 hours in advance of delivery for appointment.



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve specifications and authorize advertisement for bids for wood utility poles as required during calendar year 2004 (EUD)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Electric Utility Director

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**RECOMMENDED ACTION:** That the City Council approve the specifications and authorize advertisement for bids for the purchase of wood utility poles as needed by the Electric Utility Department during calendar year 2004.

**BACKGROUND INFORMATION:** Wood utility poles are needed on an ongoing basis for replacement of damaged or deteriorated poles and for routine line maintenance and upgrades.

Staff plans to advertise for bids as requirements are identified and as storage space allows, and will periodically bring recommended purchase quantities to the Council for approval.

**FUNDING:** Electric Utility Department 2003-2005 Financial Plan and Budget,  
Business Unit 161652, Pages E-4 and E-42  
Estimated Cost: \$50,000

**BID OPENING:** April 20, 2004

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Alan N Vallow, Electric Utility Director

Attachment: Specifications  
Prepared by Joel Harris, Purchasing Officer

cc: Manager, EUD Engineering and Operations

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

**1.0 SCOPE**

These specifications cover the minimum acceptable quality of full-length wood poles for use in the City of Lodi's overhead distribution and subtransmission system.

**2.0 SPECIFICATIONS**

The following specifications shall be met:

- A. Poles and methods of manufacturing shall be in accordance with American National Standards Institute (ANSI), Rural Electrification Administration (REA) and American Wood Preservers Association (AWPA) latest revision, except the spiral grain of any pole shall not exceed one complete rotation in any 30 feet.
- B. Poles shall be cut, marked and bored as specified in Section 6.0 of this specification.

**3.0 TREATING REQUIREMENTS**

The following requirements shall be met:

- A. Prior to treatment, poles shall be seasoned to a maximum of twenty-five percent (25%) moisture content of the sapwood based upon the oven-dried weight.
- B. Poles shall be Douglas Fir and pressure-treated with pentachlorophenol in accordance with the requirements of AWPA Standards C1, "All Timber Products - Preservative Treatment by Pressure Processes," and C4, "Poles - Preservative Treatment by Pressure Processes," or the latest revisions thereof.
- C. The pentachlorophenol shall meet the requirements of AWPA Standard P8, "Standards for Organic Preservative Systems," or the latest revision thereof. The carriers shall be a petroleum solvent in conformance with the latest edition of AWPA Standard P9, "Standard for Hydrocarbon Solvents for Oil-Borne Preservative."

**4.0 ALTERNATE SPECIES AND TREATMENTS**

The following species and treatments which otherwise meet or exceed the requirements of these specifications will be considered as alternate:

- Species other than Douglas Fir.
- Douglas Fir pressure treated with pentachlorophenol in heavy petroleum solution.
- Copper naphthenate treatment.

**5.0 HANDLING AND SHIPPING**

The following requirements shall be met:

- A. After treatment, the pole surface shall not be damaged by dragging or from the use of cant hooks, peavies, tongs, cables, slings and other tools normally used in pole-handling operations.
- B. Unloading shall be performed only by crane or unloader supplied by the trucker/bidder. All shipments will be F.O.B. delivered and unloaded, Lodi, California.

## **6.0 ADDITIONAL REQUIREMENTS**

The following requirements shall be met:

### **A. Marking**

Poles shall be permanently marked on the face and the butt of each pole in accordance with ANSI Standards.

Exception: The distance of the pole brands from the butt shall be:

- 10 feet for 50-foot pole lengths and below;
- 14 feet for 55-foot to 75-foot pole lengths;
- 18 feet for 80-foot to 100-foot pole lengths.

### **B. Cutting and Boring**

- Full length treated poles shall be cut and marked before treatment.
- Poles shall be cut so that the butts are approximately square.
- Poles shall be cut so that the tops have a slope in any direction of approximately two inches (2") over the diameter.
- No boring required.

## **7.0 DELIVERY**

Truck delivery shall be made to the City of Lodi Municipal Service Center, 1331 South Ham Lane, Lodi, California, only during normal receiving hours, 8:00 a.m. - 4:00 p.m., Monday through Friday, excluding holidays. Unloading shall be performed only by crane or boom truck supplied by the bidder or bidder's contract carrier.





# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Awarding Contracts for City-Wide Janitorial Services to Korean Professional Building Maintenance of Stockton, ServiceMaster Commercial Building Maintenance of Sacramento, and Cleaning Concepts of Lodi

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution awarding the janitorial services contract to Korean Professional Building Maintenance, of Stockton, ServiceMaster Commercial Building Maintenance, of Sacramento, and Cleaning Concepts, of Lodi, in accordance with the recommendation shown below.

**BACKGROUND INFORMATION:** This project consists of janitorial services for City facilities. Within the past six years, City facilities have grown by an estimated 110,000 square feet, including the addition of the new Police Facility. Growth and changing expectations in the quality of janitorial services indicated a need to update specifications and contract management, which required re-bidding the janitorial services contract. Significant changes to the specifications included the ability to award separate contracts for four different facility groups. Allowing multiple contracts provides opportunities for small firms and on-going competition, plus allows for easier replacement, should a firm not perform. In addition, the bid was structured to allow selection of reduced service levels to reduce the total cost. These changes now allow the City greater flexibility to pursue the highest quality work at the most reasonable cost.

Specifications for this project were approved on February 4, 2004. A prequalification process was used, and all eight contractors who applied were qualified. Bids were opened on March 10, 2004, and eight bids were received from the firms listed below. A summary of the bids is shown in Exhibit A.

Bidder	Location
Korean Professional Building Maintenance	Stockton
Cleaning Concepts	Lodi
Advanced Property Services	Sacramento
ServiceMaster Commercial Building Maintenance	Sacramento
Milton's Maintenance	Woodbridge
Tee Janitorial and Maintenance	Sacramento
National Janitorial Service	San Jose
Jani-King Commercial Cleaning of California, Inc.	Sacramento

Jani-King and National Janitorial Service failed to include the receipt form for the 2<sup>nd</sup> addendum, so their bids are considered non-responsive. Jani-King challenged the City regarding this, but the Purchasing Officer confirmed that the bid did not include Receipt of Addendum No. 2 (see Exhibit B).

Exhibit A outlines five approaches to awarding this City-wide janitorial services contract among the remaining six bidders. The four facility groups were established considering location, type of use, and frequency and type of cleaning required. In addition, two cleaning schedules were bid – "Standard" and "Reduced". Facility Group A includes the Police Facility and the Library. Group B includes the Civic Center facilities. Group C

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

includes the Municipal Service Center, Parks and Recreation, White Slough Water Pollution Control Facility, and the Parking Structure. Group D is Hutchins Street Square.

The Standard Schedule represents cleaning at the existing frequencies, typically at five days per week, except at the Library, where we are proposing a reduction from seven days per week to five days per week. The facilities that have the highest amount of public use and intense physical demands are the likeliest candidates for this schedule of cleaning. The Reduced Schedule changes the frequency of cleaning, typically from five days per week down to three days per week. The facilities that have less public use and/or are primarily office environments generally fall into this category.

Specifically, staff's recommendation is as follows:

1. That the Police Facility and the Library (Group A) be awarded to Korean Professional Building Maintenance on the Standard Schedule because of the number of citizens they serve and operational issues (i.e., 24/7 jail, dispatch, and other high-use areas). The existing frequencies at the Police Facility are six days per week for the jail portion and five days per week for the rest of the building. The Library includes a reduction from seven days a week to five days a week. The annual cost is \$58,560.
2. That the Civic Center Facilities (City Hall, Court, Carnegie Forum, and Finance Department) (Group B) be awarded to ServiceMaster Commercial Building Maintenance on the Reduced Schedule. The annual cost is \$25,272.
3. That the Municipal Service Center, Parks and Recreation Facilities, White Slough, and Parking Structure (for Fire Administration) (Group C) be awarded to ServiceMaster Commercial Building Maintenance on the Reduced Schedule. The annual cost is \$19,308.
4. That the Community Center at Hutchins Street Square (Group D) be awarded to Cleaning Concepts on the Standard Schedule. Hutchins Street Square recovers its janitorial expense through billing its renters, and the difference between standard and reduced services is only \$300 per month. The annual cost is \$11,640.
5. Bids for emergency cleaning and call outs were received from all contractors. Those minimum call out and hourly rates are part of the contracts.
6. Window cleaning was also bid as an alternate and will be part of the contracts to be used as needed.

The City Council directed staff to reduce janitorial services City-wide in January 2004, as a budget-reduction measure, anticipating annual savings of approximately \$26,000. Further significant budget savings are now available by the recommended selection of reduced services and facility group bidding of janitorial services (approximately \$60,000 total).

Finally, staff requests that the City Council grant the City Manager (within the budget) the authority to adjust cleaning frequencies with any, or all, of these contractors should the reduced schedule of cleaning not prove to be adequate, or to terminate a contract and award to other contractors should a firm, or firms, fail to perform.

**FUNDING:** Requested Appropriation: Not applicable.

The money for these service contracts **is already budgeted** in the operations budgets for the Public Works Department, Electric Utility Department, Transit Division, Parks and Recreation Department, Library, and Hutchins Street Square. The Public Works Facilities Services Division oversees the janitorial contract for the City.

---

Richard C. Prima, Jr.  
Public Works Director

Prepared by Dennis J. Callahan, Fleet and Facilities Manager  
RCP/DJC/pmf

cc: Purchasing Officer  
Parks & Recreation Director  
Facilities Supervisor

Community Center Director  
Electric Utility Director  
Police Chief

Library Services Director  
Transportation Manager  
Fire Chief

Finance Director

# **Janitorial Services for City Facilities**

Exhibit A

## **Standard Schedule**

	GROUP A P.D., Library	GROUP B C.H., Finance, Carnegie, Court	GROUP C MSC, Parks, W. Slough, Parking Structure	GROUP D H.S.S.	Total Annual Cost Using Single Bidder For All Groups
Jani-King of California	\$ <del>5,893.65</del>	\$ <del>2,195.87</del>	\$ <del>1,660.79</del>	\$ <del>826.45</del>	\$ <del>126,921.12</del>
National Janitorial	\$ <del>11,704.55</del>	\$ <del>4,523.28</del>	\$ <del>3,048.20</del>	\$ <del>1,455.72</del>	\$ <del>248,781.00</del>
Tee Janitorial	\$ 8,200.00	\$ 7,300.00	\$ 9,100.00	\$ 5,000.00	\$ 355,200.00
Milton's Maintenance	\$ 6,900.00	\$ 4,750.00	\$ 6,840.00	\$ 6,850.00	\$ 304,080.00
ServiceMaster	\$ 7,588.00	\$ 3,510.00	\$ 2,681.00	\$ 2,075.00	\$ 190,248.00
Advanced Property Services	\$ 6,709.20	\$ 2,995.00	\$ 2,760.00	\$ 2,920.00	\$ 184,610.40
Cleaning Concepts	\$ 6,820.00	\$ 4,170.00	\$ 3,150.00	\$ 970.00	\$ 181,320.00
Korean Building Maintenance	\$ 4,880.00	\$ 3,120.00	\$ 4,300.00	\$ 1,750.00	\$ 168,600.00

Lowest Bid per Group	\$ 4,880.00	\$ 2,995.00	\$ 2,681.00	\$ 970.00	
Total Annual Cost Using Lowest Bid Per Group					\$ 138,312.00

## **Reduced Schedule**

	GROUP A	GROUP B	GROUP C	GROUP D	Total Annual Cost Using Single Bidder For All Groups
Jani-King of California	\$ <del>4,596.00</del>	\$ <del>1,504.37</del>	\$ <del>1,138.66</del>	\$ <del>655.07</del>	\$ <del>94,729.20</del>
National Janitorial	\$ <del>7,609.53</del>	\$ <del>2,710.76</del>	\$ <del>1,884.70</del>	\$ <del>937.93</del>	\$ <del>157,715.04</del>
Tee Janitorial	\$ 6,600.00	\$ 5,300.00	\$ 7,000.00	\$ 3,600.00	\$ 270,000.00
Milton's Maintenance	\$ 4,500.00	\$ 2,820.00	\$ 4,105.00	\$ 4,110.00	\$ 186,420.00
Advanced Property Services	\$ 5,107.92	\$ 2,276.20	\$ 2,097.60	\$ 2,219.20	\$ 140,411.04
Cleaning Concepts	\$ 5,410.00	\$ 2,910.00	\$ 1,980.00	\$ 670.00	\$ 131,640.00
Korean Building Maintenance	\$ 3,720.00	\$ 2,210.00	\$ 3,140.00	\$ 1,250.00	\$ 123,840.00
ServiceMaster	\$ 4,758.00	\$ 2,106.00	\$ 1,609.00	\$ 1,247.00	\$ 116,640.00

Lowest Bid per Group	\$ 3,720.00	\$ 2,106.00	\$ 1,609.00	\$ 670.00	
Total Annual Cost Using Lowest Bid Per Group					\$ 97,260.00

## **Recommended Action**

Reduced Schedule, Groups B,C		\$ 2,106.00	\$ 1,609.00		
Regular Schedule, Group A, D	\$ 4,880.00			\$ 970.00	
Total Annual Cost					\$ 114,780.00

MEMORANDUM, Finance Department, Purchasing Division

---

TO: Richard Prima, Public Works Director

FROM: Joel Harris, Purchasing Officer

DATE: March 19, 2004

SUBJECT: Bid Opening – Janitorial Services – Various City Facilities  
March 10, 2004

A question has been raised concerning the presence of an Acknowledgement of Receipt of Addendum #2 in a bid submittal from Jani-King of California, Inc., Sacramento, for the City of Lodi Janitorial Services contract for various city facilities.

According to a statement by Geri Fiore, the City's Buyer who handled the bid opening on March 10, the Acknowledgement of Receipt of Addendum #2 was not included in Jani-King's binder. The binder contained Jani-King's bid, Acknowledgement of Receipt of Addendum #1, color cutsheets, and a copy of the bid instructions. Ms. Fiore attested that she looked through the binder twice, page by page, and the Acknowledgement #2 was not included.

She then read into the record the existence of the only Acknowledgement included, that for Addendum #1, and the respective bid amounts listed by Jani-King. The record reflects that reading.

cc: Ruby Paiste, Accounting Manager

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY  
COUNCIL AWARDING BIDS FOR  
CITY-WIDE JANITORIAL SERVICES

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council sealed bids were received and publicly opened on March 10, 2004, at 11:00 a.m. for City-wide Janitorial Services described in the specifications therefore approved by the City Council on February 4, 2004; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as shown on Exhibit A attached hereto.

WHEREAS, two bidders, JaniKing and National Janitorial Service failed to include the receipt form for the 2<sup>nd</sup> addendum, and therefore their bids are considered non-responsive; and

WHEREAS, the City Manager recommends award of the bids for City-wide Janitorial Services be made to the lowest responsible bidders, Korean Building Maintenance, of Stockton; Service Master, of Sacramento; and Cleaning Concepts, of Lodi, California, in the amounts shown on Exhibit A attached.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that the award of the bids for City-wide Janitorial Services be and the same is hereby awarded to the lowest responsible bidders, Korean Building Maintenance, of Stockton; Service Master, of Sacramento; and Cleaning Concepts, of Lodi, CA, in the amounts shown on Exhibit A attached.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

## Janitorial Services for City Facilities

Exhibit A

### Standard Schedule

	GROUP A P.D., Library	GROUP B C.H., Finance, Carnegie, Court	GROUP C MSC, Parks, W. Slough, Parking Structure	GROUP D H.S.S.	Total Annual Cost Using Single Bidder For All Groups
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Lowest Bid per Group	\$ 4,880.00	\$ 2,995.00	\$ 2,681.00	\$ 970.00	
Total Annual Cost Using Lowest Bid Per Group					\$ 138,312.00

### Reduced Schedule

	GROUP A	GROUP B	GROUP C	GROUP D	Total Annual Cost Using Single Bidder For All Groups
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Lowest Bid per Group	\$ 3,720.00	\$ 2,106.00	\$ 1,609.00	\$ 670.00	
Total Annual Cost Using Lowest Bid Per Group					\$ 97,260.00

### Recommended Action

Reduced Schedule, Groups B,C		\$ 2,106.00	\$ 1,609.00		
Regular Schedule, Group A, D	\$ 4,880.00			\$ 970.00	
Total Annual Cost					\$ 114,780.00



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Accepting the Improvements for Harney Lane Sanitary Sewer Lift Station

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution accepting the improvements for the Harney Lane Sanitary Sewer Lift Station.

**BACKGROUND INFORMATION:** On December 4, 2002, the City Council approved an improvement agreement with Chris R. Keszler and David Williams for the installation of the Harney Lane Sanitary Sewer Lift Station. In addition to the lift station improvements, the project included the installation of a sanitary sewer force main, trunk line facilities in Harney Lane, and a standby generator. At its November 19, 2003, meeting, City Council accepted a portion of the improvements at the Harney Lane Sanitary Sewer Lift Station site. The project is now totally complete with the installation of an access road and the delivery and installation of the standby generator.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

**FUNDING:** Developer Funds

\_\_\_\_\_  
Richard C. Prima, Jr.  
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: Interim City Attorney  
Assistant Water/Wastewater Superintendent  
Senior Civil Engineer – Development Services  
Chief Building Inspector  
Developer/Owner  
Senior Engineering Technician - Design  
Street Superintendent  
Baumbach and Piazza

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING THE  
DEVELOPMENT IMPROVEMENTS INCLUDED IN THE  
IMPROVEMENT AGREEMENT FOR HARNEY LANE SANITARY  
SEWER LIFT STATION PROJECT

=====

The City Council of the City of Lodi finds:

1. That the requirements of the Improvement Agreement between the City of Lodi and Chris R. Keszler and David Williams for the Harney Lane Sanitary Sewer Lift Station improvements located at the southeast corner of Mills Avenue/Harney Lane intersection, have been substantially complied with as specifically set forth in the plans and specifications approved by the City Council on December 4, 2002; and
2. That the lift station project is now totally complete, in that the lift station contractor has installed the access road and the standby generator. Therefore, the City Council accepts all of the Harney Lane Sanitary Sewer Lift Station Improvements.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Accepting the Public Improvements of the Public Alley North of Oak Street, West of Central Avenue at the Joe Serna, Jr., Charter School Site

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Public Works Director

---

**RECOMMENDED ACTION:** That the City Council adopt a resolution accepting the public improvements of the public alley north of Oak Street, west of Central Avenue at the Joe Serna, Jr., Charter School site.

**BACKGROUND INFORMATION:** Public improvements in the alley north of Oak Street and west of Central Avenue have been completed in substantial conformance with the requirements of the Improvement Agreement between the City and Lodi Unified School District, as approved by the City Manager on May 5, 2003, and as shown on Drawings No. 002D145 and 002D146.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

**FUNDING:** Not Applicable

---

Richard C. Prima, Jr.  
Public Works Director

Prepared by Wesley Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: Interim City Attorney  
Senior Civil Engineer - Development Services  
Street Superintendent  
Assistant Water/Wastewater Superintendent  
Senior Engineering Technician  
Chief Building Inspector

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING THE  
PUBLIC IMPROVEMENTS INCLUDED IN THE IMPROVEMENT  
AGREEMENT FOR THE PUBLIC ALLEY NORTH OF OAK STREET,  
WEST OF CENTRAL AVENUE AT THE JOE SERNA, JR.,  
CHARTER SCHOOL SITE

=====

The City Council of the City of Lodi finds:

1. That the requirements of the Improvement Agreement between the City of Lodi and Lodi Unified School District, for the public improvements in the alley north of Oak Street and west of Central Avenue, have been substantially complied with. The improvements are shown on Drawing Nos. 002D145 and 002D146 on file in the Public Works Department and as specifically set forth in the plans and specifications approved by the City Manager on May 5, 2003; and

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution to Approve the Improvement Agreement for the Public Improvements of 620 South Cherokee Lane (APN 047-450-36) and Appropriate Funds for Applicable Reimbursements (\$85,000)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution to approve the Improvement Agreement for the Public Improvements of 620 South Cherokee Lane (APN 047-450-36), direct the City Manager and City Clerk to execute the improvement agreement on behalf of the City, and appropriate funds for applicable reimbursements.

**BACKGROUND INFORMATION:** The Rancho San Miguel Market is currently under construction at 620 South Cherokee Lane, the former Tokay Bowl site (Exhibit A). Installation of public improvements, including a traffic signal at the Cherokee Lane/Tokay Street intersection and associated improvements along the Cherokee Lane frontage of the site, is required as a condition of building permit issuance for the market.

The developer, Progenitor Holding Company III, LLC, has furnished the City with the improvement plans, necessary agreements, guarantees, insurance certificates, and fees for the proposed improvements.

Under the current Development Impact Mitigation Fee Program, the developer is entitled to reimbursement by the City for fifty percent (50%) of the traffic signal installation costs. Based on contract information submitted by the developer, the total improvement costs related to the traffic signal installation are \$168,682. Reimbursement will be made in conformance with LMC 16.40 Reimbursements for Construction when the improvements are complete and accepted by the City. Staff requests that funds be appropriated to cover the reimbursement.

**FUNDING:** IMF – Local Streets \$85,000.00

\_\_\_\_\_  
Vicky McAthie, Finance Director

\_\_\_\_\_  
Richard C. Prima, Jr.  
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer  
RCP/SAW/pmf  
Attachments

cc: Senior Civil Engineer Fujitani  
Y & C Transportation Consultants, Inc.

Atlas Properties  
Dillon & Murphy

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

When Recorded, Please Return to:  
Lodi City Clerk  
P.O. Box 3006  
Lodi, CA 95241-1910

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE  
IMPROVEMENT AGREEMENT FOR THE PUBLIC IMPROVEMENTS OF  
620 SOUTH CHEROKEE LANE (APN 047-450-36) AND FURTHER  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE IMPROVEMENT  
AGREEMENT ON BEHALF OF THE CITY OF LODI, AND FURTHER  
APPROPRIATING FUNDS FOR THE APPLICABLE REIMBURSEMENT

=====

WHEREAS, the Rancho San Miguel Market is currently under construction at 620 South Cherokee Lane by developer Progenitor Holding Company III, LLC, as shown on Exhibit A attached; and

WHEREAS, as a condition of the building permit for the market, installation of public improvements, including a traffic signal at the Cherokee Lane/Tokay Street intersection and associated improvements along the Cherokee Lane frontage of the site was required; and

WHEREAS, the developer is entitled to reimbursement by the City for fifty percent (50%) of the traffic signal installation costs in conformance with Lodi Municipal Code §16.40 "Reimbursement for Construction" upon completion of the improvements and accepted by the City; and

WHEREAS, staff therefore recommends that the City Council take the following action with regard to the Rancho San Miguel Market project:

1. Approve the Improvement Agreement for the Public Improvements of 620 South Cherokee Lane (APN 047-450-36), and direct the City Manager and City Clerk to execute the Improvement Agreement on behalf of the City of Lodi; and
2. Appropriate \$85,000 from the IMF - Local Street fund for the required reimbursement to the developer.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lodi hereby finds as follows:

1. Approve the Improvement Agreement for the Public Improvements of 620 South Cherokee Lane (APN 047-450-36), and direct the City Manager and City Clerk to execute the Improvement Agreement on behalf of the City of Lodi; and
2. Appropriate \$85,000 from the IMF - Local Street fund for the required reimbursement to the developer.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Authorizing the City Manager to Execute a Contract With the Lodi-Tokay Rotary Club for the 13<sup>th</sup> Annual Oooh Ahhh Festival to be Held on July 4, 2004 (\$18,000)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Janet L. Hamilton, Management Analyst

---

**RECOMMENDED ACTION:** That the City Council adopt a resolution authorizing the City Manager to execute a contract (Exhibit A) with the Lodi-Tokay Rotary Club for the 13<sup>th</sup> Annual Oooh Ahhh Festival to be held on July 4, 2004, in the amount of \$18,000.

**BACKGROUND INFORMATION:** The event began in 1991 as a project of Lodi Events, Inc. Local residents that saw a need to provide a safe, fun, family environment for the Independence Day celebration comprised this organization. Lodi Events, Inc. was dissolved in 1993 and the event was turned over to the Lodi-Tokay Rotary Club. It has since become a key fundraiser of the Club. Each year, the Club raises nearly \$30,000 that is distributed to local non-profit organizations and a variety of worthy Rotary supported projects locally, regionally, nationally, and abroad. The Lodi-Tokay Rotary Club has retained the services of WhyteHouse Productions since taking responsibility for the event. Over 200 volunteers, represented by many local non-profit organizations, staff the event.

Revenue sources include sponsorships from local businesses, beverage sales, the Milk Carton Regatta and BBQ Cook-Off entries, a dinner barbecue, vendor sales, and the City of Lodi \$18,000 grant for fireworks (Exhibit A, page 2, paragraph C).

The Oooh Ahhh Festival is a community event that reaches out to children, teens, and their families by providing them with a wholesome, safe, incredibly fun, and low cost way to celebrate our nation's birthday. After twelve years, the event continues to improve and grow. This year, as suggested by the City Manager, the Lodi-Tokay Rotary has included in their budget (Exhibit B) reimbursement to the City for the cost of services provided.

**FUNDING:** 2003-2004 Community Promotions Budget

\_\_\_\_\_  
Vicky McAthie, Finance Director

\_\_\_\_\_  
Janet L. Hamilton  
Management Analyst

---

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

Attachments

cc:

Joanne Mounce, Event Chair  
Dorean Rice, Event Co-chair  
Richard Jones, Lodi-Tokay Rotary President  
JoEllen Flemmer, Lodi-Tokay Rotary President-elect



**AGREEMENT**  
**USE OF LODI LAKE PARK BY LODI/TOKAY ROTARY CLUB**  
**FOR THE FOURTH OF JULY 2004**

**PARTIES:**

This agreement is made by and between the City of Lodi, a municipal corporation ("City") and Lodi/Tokay Rotary Club ("Club").

**RECITALS:**

The City is the owner of Lodi Lake Park, which is located on Turner Road in the City of Lodi. Club, for the purpose of coordinating and encouraging certain local events, is desirous of obtaining exclusive use of Lodi Lake Park on July 4, 2004 to stage the "oooH-AHHH Festival" and fireworks display.

NOW, THEREFORE, FOR VALUE RECEIVED, the parties hereto agree to abide by the terms of this writing.

**TERMS AND CONDITIONS:**

1. Premises: City grants to Club the exclusive right to use Lodi Lake Park for the purpose of putting on certain special events on July 4, 2004.
2. CLUB will perform setup on Thursday, July 3, 2004, between 8:00 a.m.-9:00 p.m. The events will begin at 7:00 a.m. and end at 10:00 p.m. on July 4, 2004. Cleanup will begin on July 5, 2004 from 8:00 a.m. to 12:00 p.m.
3. Consideration: In consideration for the use of said premises Club shall do the following:
  - A. Club will provide staffing, personnel, supplies, and material necessary to put on the events to take place July 4, 2004. Club shall have the right to charge reasonable admission fees to such park for the purposes of raising funds to defray the costs of putting on such events and for the benefit of various community non-profit organizations. Club shall determine appropriate admission charges subject to City approval.

- B. Club shall furnish an accounting of all tickets sold and gross gate and other receipts received. This accounting shall be presented to the Parks and Recreation Department no later than the Friday immediately following the event described in this agreement.
- C. For the purpose of putting on the Fourth of July fireworks display, City shall contribute \$18,000.00 to be applied to the purchase of the pyrotechnic fireworks display. Any additional costs which are required for the provision of such pyrotechnic fireworks display shall be borne by Club, but in no event shall the \$18,000.00 provided by City be used for any purpose other than the direct contracting for the provision of such pyrotechnic fireworks display.
4. Cleanliness upon surrender: It is understood that Club will return Lodi Lake Park in as good and clean condition as when received. Club shall remain liable for all further and additional costs of cleanup should said premises not be surrendered in a good and generally clean condition. It is further understood that Club will arrange for pickup and delivery of all dumpsters or trash containers necessary for the events and for emptying the City trash receptacles located on the premises after the events.
5. Concessions: It is understood that Club shall have the rights to all food concessions and to the dispensing and selling of beer and/or wine. [No hard liquor may be dispensed or sold]. It shall be the responsibility of Club to secure, in writing, all applicable State Alcohol Beverage Control (ABC) licenses and other clearances necessary. Club shall furnish proof of such compliance to City not later than twenty-four (24) hours prior to the holding of such event.
6. Security: It is agreed that the Club shall provide appropriate security personnel and shall be responsible for all costs of fencing Lodi Lake Park which is hereby required. City shall provide additional police security as deemed appropriate by City in its exclusive discretion.

7. Insurance\Hold Harmless: City shall, as owner of the property, be responsible to the extent provided by law for any damages arising from the condition of the property itself, or from the direct and active negligence of City's employees and officers. Club shall save, defend, indemnify and hold harmless City, its officers, agents or employees from all damages, costs or expenses which may arise because of damages or injury caused by Club, its officers, agents, members or employees during the course of its activities on said premises. Such indemnity shall include attorney's fees. Club is required to carry a policy of comprehensive general liability insurance in compliance with all provisions of the "Risk Transfer Requirements for Lease or Use of City of Lodi Facilities ", attached hereto as Exhibit A and incorporated herein by reference. Club shall furnish a certificate of insurance meeting the above-mentioned insurance requirements to the City on or before June 4, 2004.

8. Compliance With Local Ordinances: Club agrees to meet any and all traffic and security requirements as found in local codes or ordinances and to obtain all necessary permits, clearances and approvals from the City Police Chief, City Fire Marshall and any other applicable City, County or State officials prior to conducting any events or other activities on the premises.

9. Sanitation: Club agrees to provide all necessary sanitation facilities including port-a-pots at its sole and exclusive expense. All risk of loss or damage to any such facilities during the events shall lie or rest with Club.

10. Profits: All profits received from admissions charged to such events and/or the sale of food, beverages or merchandise shall be allocated as follows:

After all legitimate expenses for such events are paid, Club by way of its Board of Directors shall, in its sole discretion, distribute profits on the following basis:

- A. Local non-profit organizations or groups which have provided volunteers to staff the events described herein shall receive a share of the profits, to be determined by the number of volunteers each organization provided and the total hours worked;

- B. Although the Board of Directors shall have sole and exclusive discretion to determine the hourly\per capita rate, all non-profit organizations furnishing volunteers shall receive an equal rate;
- C. The Club shall reimburse the City for the cost of service provided as submitted in the attached budget proposal;
- D. After distribution of such profits to local non-profit organizations furnishing volunteers, any remaining profits shall go into the City's general fund.

11. Responsibility for Debts: Club shall be solely responsible for all costs associated with the events, and shall in no way pledge the credit of City for any goods, services or supplies used for the events described herein. Club shall not encumber nor hypothecate any City property as security for debts and shall defend and indemnify City for any and all claims by any supplier of goods, services or supplies for such events, or assignees thereunder.

12. Entire Agreement: This document contains the entire agreement between the parties. Any inconsistent prior or contemporaneous oral terms are void and shall not be used to modify or supplement this written agreement.

IN WITNESS WHEREOF, the parties hereto, being in agreement with the terms of this writing, have set their hands as follows:

CITY OF LODI, a municipal corporation:

LODI/TOKAY ROTARY CLUB:

By: \_\_\_\_\_  
H. Dixon Flynn  
City Manager

By: \_\_\_\_\_  
Joanne Mounce  
Chairperson

Attest:

Approved as to form:

\_\_\_\_\_  
Susan J. Blackston  
City Clerk

\_\_\_\_\_  
D. Stephen Schwabauer  
Interim City Attorney

4:29 PM  
08/25/03  
Cash Basis

Oooh Ahhh Festival  
**Profit & Loss Budget Overview**  
September 2003 through August 2004

		Sep '03 - Aug 04
Ordinary Income/Expense		
Income		
INCOME		
Bath Tub Regatta Sales	350.00	
BBQ Cook-Off Sales	125.00	
Booth Sales	5,970.00	
Day of Event Revenue	60,000.00	
Firecracker BBQ	3,200.00	
Interest	113.56	
Raffle	500.00	
Sponsorship Sales	40,000.00	*includes City grant
Total INCOME	110,258.56	
Total Income	110,258.56	
Expense		
EXPENSES		
Advertising	2,000.00	
BBQ	750.00	
City of Lodi Services	10,500.00	
Consumables	4,900.00	
Event Management	10,200.00	
Event Supplies	1,550.00	
Fireworks	20,000.00	
Games & Rides	7,000.00	
Meeting Expense	600.00	
Merchandise Expense	800.00	
Office Supplies	700.00	
Performer	2,000.00	
Permits	534.00	
Rental	17,500.00	
Security	500.00	
Start Up Cash - Day of Event	3,500.00	
Storage	360.00	
Total EXPENSES	83,394.00	
Total Expense	83,394.00	
Net Ordinary Income	26,864.56	
Other Income/Expense		
Other Expense		
DONATIONS		
Donations to Non Profits	8,000.00	
Transfer to LTRC	10,000.00	
Total DONATIONS	18,000.00	

4:29 PM  
08/25/03  
Cash Basis

Oooh Ahhh Festival  
**Profit & Loss Budget Overview**  
September 2003 through August 2004

	<u>Sep '03 - Aug 04</u>
Total Other Expense	<u>18,000.00</u>
Net Other Income	<u>(18,000.00)</u>
Net Income	<u><u>8,864.56</u></u>

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE  
CITY MANAGER TO EXECUTE A CONTRACT WITH LODI-TOKAY  
ROTARY CLUB FOR THE 13<sup>TH</sup> ANNUAL OOOH AHFH FESTIVAL  
HELD JULY 4, 2004

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby  
authorize the City Manager to execute an agreement with the Lodi-Tokay Rotary Club for  
the "Oooh Ahhh Festival" held July 4, 2004; and

BE IT FURTHER RESOLVED that the City Manager is authorized to provide  
funds in the amount \$18,000.00 for this event.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the  
City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following  
vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt a resolution authorizing the City Manager to allocate \$14,675 to fund a City of Lodi Parks & Recreation lighting retrofit project; and to execute a contract with Eagle Energy Management to conduct the project work

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Electric Utility Director

---

**RECOMMENDED ACTION:** That the City Council adopt a resolution authorizing the City Manager to allocate \$14,675 to fund a City of Lodi Parks & Recreation facility lighting retrofit project; and to execute a contract with Eagle Energy Management to conduct the project work.

**BACKGROUND INFORMATION:** In 2000, the City of Lodi embarked upon a broad energy efficiency improvement project. Included in this effort was the removal of aging and inefficient lighting systems at numerous city-owned parks and recreation facilities.

One facility that has yet to be retrofitted with energy efficient lighting is the Parks & Recreation annex building located at 111 N. Stockton Street. By way of this resolution, City of Lodi Electric Utility and Parks & Recreation staff are recommending a lighting retrofit for the two (2) commercial suites owned and maintained by the City of Lodi inside the annex building. The two suites are currently occupied by Mojica's Batting Cages and Jazzercise of Lodi.

At these two commercial sites, the proposed contractor (Eagle Electric & Energy Management) will provide all labor and materials necessary to remove the existing lighting systems, and replace those systems with high efficiency lighting systems and controls. The actual cost per site is: \$7,945 for the suite housing Mojica's Batting Cages, and \$6,730 for the suite housing Jazzercise of Lodi. The retrofit will include the removal of all the existing T-12 fluorescent lamps/fixtures, as well as several 400-watt metal halide fixtures, and replacing those products with state-of-the-art, energy efficient T-8 fluorescent lamps and electronic ballast. The project also involves the removal of all 60-watt incandescent fixtures, and replacing those with 13-watt compact fluorescent lamps.

Each of the two tenants will reduce their lighting energy consumption by approximately 35 percent, while the physical light output will increase by approximately 25 percent (the enhanced lighting output is based upon an increase in foot candles produced by each fixture). City staff has reviewed the proposed lighting retrofits with both businesses housed at the annex building, and the lighting retrofit project has their full support and endorsement.

*Note: In 2000, and again in late 2003, Eagle Electric was the chosen sub-contractor utilized to install, clean and retrofit (where needed) new lights and standards at numerous parks and recreation/sports*

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



*fields, as well as the retrofitting of the Parks & Recreation office lighting, throughout the community. Due to their experience in Lodi, and their extensive knowledge of the various Lodi facilities, the City of Lodi Electric Utility and Parks & Recreation Departments respectfully request that the Lodi City Council dispense with going out to bid pursuant to Lodi Municipal Code 3.20.070.*

**FUNDING:**                    164605 - Public Benefits - \$7,945 (Category- Demand-side Management)  
                                     1212029 - Parks and Recreation - \$6,730

**Funding Approval:**                    \_\_\_\_\_  
   Vicky McAthie, Finance Director

\_\_\_\_\_  
Tony Goehring  
Parks & Recreation Director

\_\_\_\_\_  
Alan N. Vallow  
Electric Utility Director

ANV/TG:tl

cc:     City Attorney  
         Steve Dutra  
         Rob Lechner

Prepared by Rob Lechner and Steve Dutra

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY  
MANAGER TO ALLOCATE FUNDS FOR A CITY OF LODI PARKS AND  
RECREATION LIGHTING RETROFIT PROJECT, AND FURTHER  
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH  
EAGLE ENERGY MANAEMENT TO CONDUCT THE PROJECT WORK

=====

WHEREAS, Lodi Municipal Code §3.20.070 authorizes dispensing with bids for purchases of supplies, services, or equipment when it is in the best interest of the City to do so; and

WHEREAS, in 2000, the City of Lodi embarked upon a broad energy efficiency improvement project, that included the removal of aging and inefficient lighting systems at numerous city-owned parks and recreation facilities; and

WHEREAS, one facility that has yet to be retrofitted with energy efficient lighting is the Parks & Recreation annex building located at 111 N. Stockton Street, and staff recommends a lighting retrofit for the two (2) commercial suites owned and maintained by the City of Lodi inside the annex building. The two suites are currently occupied by Mojica's Batting Cages and Jazzercise of Lodi; and

WHEREAS, the proposed contractor, Eagle Electric & Energy Management, will provide all labor and materials necessary to remove the existing lighting systems, and replace those systems with high efficiency lighting systems and controls. The actual cost per site is: \$7,945 for the suite housing Mojica's Batting Cages, and \$6,730 for the suite housing Jazzercise of Lodi; and

WHEREAS, the retrofit will include the removal of all the existing T-12 fluorescent lamps/fixtures, as well as several 400-watt metal halide fixtures, and replacing those products with state-of-the-art, energy efficient T-8 fluorescent lamps and electronic ballast. The project also involves the removal of all 60-watt incandescent fixtures, and replacing those with 13-watt compact fluorescent lamps; and

WHEREAS, in 2000, and again in late 2003, Eagle Electric was the chosen sub-contractor utilized to install, clean and retrofit where needed, new lights and standards at numerous parks and recreation/sports fields, as well as the retrofitting of the Parks & Recreation office lighting, throughout the community. Due to their experience in Lodi, and their extensive knowledge of the various Lodi facilities, the City of Lodi Electric Utility and Parks & Recreation Departments respectfully request that the Lodi City Council dispense with going out to bid pursuant to Lodi Municipal Code 3.20.070.

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby authorizes the City Manager to allocate \$14,675 to fund a City of Lodi Parks & Recreation facility lighting retrofit project, and further authorizes the City Manager to execute agreement with Eagle Energy Management to conduct the project work referenced above.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held April 7, 2004 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution approving Memorandum of Understanding between City of Lodi and Lodi Professional Firefighters (LPF)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Human Resources Director

---

**RECOMMENDED ACTION:** That the City Council approve the Memorandum of Understanding between City of Lodi and the Lodi Professional Firefighters (LPF).

**BACKGROUND INFORMATION:** The City has recently completed negotiations with the Lodi Professional Firefighters bargaining unit. In September, 2003, the City Council accepted the tentative agreement with the Lodi Professional Firefighters. The agreement was subsequently ratified by the Lodi Professional Firefighters. A Memorandum of Understanding has been prepared and is now brought back to the City Council for formal adoption.

**FUNDING:** N/A

Respectfully submitted,

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Joanne M. Narloch, Human Resources Director

cc: Interim City Attorney  
Pete Iturraran, LPF President

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF LODI AND THE LODI  
PROFESSIONAL FIREFIGHTERS

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approves the Memorandum of Understanding between the City of Lodi and the Lodi Professional Firefighters, as shown on Exhibit A attached hereto; and

BE IT FURTHER RESOLVED that said Memorandum of Understanding shall be effective July 1, 2003 through June 30, 2006.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING**

**CITY OF LODI**

**AND**

**LODI PROFESSIONAL FIREFIGHTERS**

**July 1, 2003 – June 30, 2006**

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Schedule A – Salary Schedule Effective 10/1/03  
Attachment 1 – Side Letter



City of Lodi  
And  
Lodi Professional Firefighters  
July 1, 2003 – June 30, 2006

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**Chapter 1. Salaries and Other Compensation**

**ARTICLE I - ABOVE CLASS PAY**

- 1.1 All employees in this bargaining unit who are required to work in a higher class shall be paid an additional 5% of the employee's salary for all hours once 12 consecutive hours have been worked.

**ARTICLE II – DEPARTMENT SANCTIONED TEAMS**

- 2.1 It is the intent of the City to develop specialized teams to address a variety of special hazards and provide specialized services to the department or community. When a team is established, minimum standards for inclusion and retention as a team member shall be developed and ratified by the Fire Chief. Any member of the department who becomes a member of the recognized specialized team, shall receive a 2.5% salary increase for as long as he/she meets the minimum entry level requirements and maintains a minimum level of participation as outlined in the team membership requirements. Each employee of the department can only receive 2.5% of salary for team membership, regardless of the number of teams the employee belongs to.
- 2.2 Existing members of the Hazardous Materials Team shall remain members of the team and shall continue to receive the 2.5% salary increase. The three members of the department who meet the minimum requirements for inclusion on the Hazardous Material Team shall be able to join the team and receive the 2.5% salary increase upon ratification of this contract. However, no additional team members shall be assigned to the Hazardous Material Team until the membership falls below 12 members. There shall be a six month period for the team to develop acceptable performance standards for maintaining his/her membership on the team.

- 2.3 The development of new teams shall require the submittal of minimum entry level and performance criteria for maintenance of membership to the Fire Chief prior to the development of the team. The Fire Chief shall have the sole discretion as to the appropriate number of members per specialized team. The department shall make every effort to develop a cadre of specialized teams to adequately address the needs of its members.

### **ARTICLE III - EDUCATION INCENTIVE**

- 3.1 An incentive program shall be established with the major purpose being to encourage and reward members of the LPF to broaden their on-the-job experience with academic training in the fields of science, management and administration.

- 3.2 Employees who meet the following criteria are eligible for education incentive pay.

- A. Employees holding an Associate of Arts shall receive \$25.00 per month if the:

1. AA is in Fire Science or related field or;
2. AA is in a non-related field with a Fire Science Certificate from an accredited institution or;
3. The employee possesses an AA degree and is actively pursuing a baccalaureate degree.

- B. Employees possessing a BA or BS degree shall receive an additional \$25.00 per month. If an employee possesses a BA degree, it is assumed that an AA is also possessed.

- C. The following increments shall be added to the Education Incentive Program. It is agreed that the following amounts shall be paid if the individual has completed the necessary course work.

- ◇ EMT-----3% of base salary per month
- ◇ Certified Fire Officer-----\$50.00 per month
- ◇ Certified Chief Officer-----\$50.00 per month
- ◇ Certified Fire Investigator- Level 2-----\$12.50 per month
- ◇ Certified Fire Instructor Level 3 and Mgmt 2.E-----\$25.00 per month
- ◇ Certified Fire Prevention Officer Level 3 and Mgmt 2.E-----\$25.00 per month
- ◇ Certified Public Education Officer Level 2 ----- \$12.50 per month
- ◇ Certified Fire Chief-----\$25.00 per month

The maximum amount to be paid under this program is \$175.00 per month. EMT pay is excluded from the \$175.00 per month cap.

- 3.3 In addition to the amounts specified in Section 3.2, an additional \$25.00 per month shall be paid if the employee possess a Hazardous Materials Specialist/Technician certificate.
- 3.4 Persons possessing the aforementioned requirements shall not receive the incentive pay until such time as evidence of completion is produced. If they do possess the requirements on that date, but do not have evidence of completion, pay shall be made retroactively.

#### **ARTICLE IV – FLEXIBLE SPENDING ACCOUNT**

- 4.1 The City shall include members of the LPF in the City's flexible spending account program, which allows employees to pay for unreimbursed medical costs, insurance premiums, and dependent care costs to be paid with pretax dollars.

#### **ARTICLE V - JURY DUTY**

- 5.1 All full-time regular employees are granted jury duty leave with pay. Any employee who is summoned to attend any court during the time regularly required for his employment for the purpose of jury service shall be entitled, while so engaged and actually serving, to his regular compensation in addition to any jury duty compensation.
- 5.2 No employee shall be granted jury duty leave with pay in which such employee will be testifying in behalf of oneself or as a witness in a court of law.
- 5.3 An employee serving on jury duty, who is not required to be in attendance at such jury duty for more than one half of the employee's normal working day is expected to return to his regular work assignment for the balance of the day. An employee seated on a jury shall not be scheduled for regular work during the twelve hours preceding the scheduled time for jury duty.
- 5.4 If an employee covered by this Agreement is required by subpoena to appear in court or to give a deposition as a result of an action taken within the scope of employment with the City, that employee shall receive his full pay while so doing, with no loss of time if he/she is on regular duty. If the employee is not on duty, the City agrees to compensate that employee at one and one-half times his/her regular rate of pay, for the time spent in any appearance as required by this Article. The employee shall demand a witness fee and shall reimburse same to the City. As a

prerequisite for payment to off-duty employees, the Fire Chief or his designee must be notified in writing of the off-duty appearance within seventy-two hours after the employee is subpoenaed or otherwise notified of the required court appearance. The employee shall demand a witness fee and shall reimburse the same to the City.

- 5.5 Voluntary Grand Jury service such as that service in San Joaquin County, is not covered by Jury Duty leave.

## **ARTICLE VI – MERIT INCREASES**

- 6.1 Merit increases shall not exceed the next step of the salary range for the position's classification.

## **ARTICLE VII - OVERTIME**

- 7.1 All hours worked in addition to the regularly scheduled shifts shall be paid at the rate of one and one-half times the then regular rate of the employee. Overtime work shall be required of any employee to meet special or unusual needs of service beneficial to the City and community. All overtime work requires the prior approval of a supervisor. No employee on disciplinary or medical leave shall be eligible to work overtime.
- 7.2 Employees working overtime shall be paid in increments of 15 minutes. Time within any 15 minute increment shall be rounded off, with 0-7 minutes adjusting back to the preceding increment and 8-15 minutes adjusting forward to the next increment. Therefore, overtime shall be compensated in increments of 15 minutes at a rate of time and one-half.
- 7.3 Employees may accrue compensatory time in lieu of overtime pay. The accrual rate for compensatory time shall be one and one-half hours for each hour worked.
- 7.4 No more than one hundred forty-four (144) hours of compensatory time shall be carried on the books at any time.
- 7.5 Bargaining unit members shall be allowed to cash out 144 hours of earned compensatory time off twice per year, in April and October.
- 7.6 Upon separation, the employee shall be paid at the employee's current hourly rate or the average of the last three years whichever is higher, for the remaining compensatory balance.
- 7.7 Early call in or shift holdovers shall be compensated at the time and one-half rate.

- 7.8 Employees called to work outside their regular hours shall be paid at the rate of time and one-half the hourly rate for hours actually worked with a minimum guarantee of three (3) hours for each call.
- 7.9 If an employee requests time off that would result in the need for overtime, the employee must take a minimum of three (3) hours off unless the time off is for emergency reasons or has prior approval of the Fire Chief or his/her designee. Except for the first or last two or less hours of the shift, shift holdover or early relief would apply in these situations.
- 7.10 If a represented employee is called upon to perform the duties of a position exempt from the Fair Labor Standards Act, all provisions of this Article shall prevail.

### **ARTICLE VIII - SALARY**

- 8.1 Effective October 1, 2003, represented employees shall receive an equity salary adjustment of 3.5% simultaneous with a general salary increase of 2.5% as shown in Schedule A.
- 8.2 Effective the pay period in which July 1, 2004 falls, represented employees shall receive a cost of living increase based on the April, 2004 Consumer Price Index (San Francisco/San Jose, Urban Wage Earner). The cost of living increase shall equal the CPI, but in no event will it be great than 4% or less than 2%.
- 8.3 Effective the pay period in which July 1, 2005 falls, represented employees shall receive a cost of living increase based on the April, 2005 Consumer Price Index (San Francisco/San Jose, Urban Wage Earner). The cost of living increase shall equal the CPI, but in no event will it be great than 4% or less than 2%.
- 8.4 The fifteen cities to be surveyed are as follows:

Chico	Clovis	Davis
Fairfield	Merced	Manteca
Modesto	Redding	Roseville
Stockton	Tracy	Turlock
Vacaville	Visalia	Woodland

### **ARTICLE IX - TUITION REIMBURSEMENT**

- 9.1 In addition to the City policy, individuals enrolling in courses offered by recognized professional organizations which are not accredited through a college or

university shall be eligible for up to a maximum of \$300.00 per fiscal year. The total monetary benefit shall not exceed the amount listed in the City Policy Manual.

#### **ARTICLE X – DEFERRED COMPENSATION**

- 10.1 Effective January 1, 2004, the City shall match contributions by bargaining unit members to a deferred compensation program up to a maximum of 3% of the members salary.

#### **ARTICLE XI - UNIFORM ALLOWANCE**

- 11.1 The City shall, on a one-time basis, provide each present and future employee with three department approved uniform shirts and three pair of department approved uniform pants of a flame retardant fabric. After this initial issue the maintenance and replacement of the uniform is the employee's responsibility.
- 11.2 The uniform allowance shall be \$800 per year, paid quarterly, as part of the last bi-weekly paycheck in the months of March, June, September, and December.

#### **ARTICLE XII - WORKERS' COMPENSATION**

- 12.1 In the event that a member of the LPF is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his duties, he shall become entitled, regardless of his period of service with the City, to leave of absence while so disabled without loss of salary, in lieu of temporary disability payments, if any, which would be payable under this chapter, for the period of such disability but not exceeding one year, or until such earlier date as he is retired on permanent disability pension. (State of California Labor Code, Article 7, Section 4850.)
- 12.2 The City agrees to implement Article 4850.3 of the Labor Code which provides for advance disability payments prior to receipt of disability retirement allowance to the member.

#### **ARTICLE XIII- BILINGUAL PAY**

- 13.1 The City shall make bilingual pay of \$150.00 per month available to all current bargaining unit positions for speaking Spanish and/ or Punjabi, subject to the

eligible employee passing a proficiency exam administered and approved by the City.

#### **ARTICLE XIV- PERFORMANCE INCENTIVE BONUS**

##### **14.1 Definition:**

A Performance Incentive Bonus (PIB) is a monetary reward for meritorious performance above and beyond what is expected and required of all employees who satisfactorily meet the standards of their job.

The bonus shall be \$1,500.00 for those employees who have completed the service requirements of ten (10) years, and \$3,000.00 for those employees who have completed the service requirements of twenty (20) years.

Said bonus is not a part of base salary. Receipt of bonus for one (1) year does not affect the following year. Employees must submit a new application for each year they wish to be considered for the PIB.

It is understood that the bonus is discretionary, and is based upon meritorious performance as described in the PIB evaluation criteria.

Employees who are granted a PIB by the evaluation committee shall be issued a separate check for the appropriate amount in November of each year of this contract.

##### **14.2 Eligibility:**

To be eligible to apply for the bonus, employees must meet the following minimum qualifications:

1. Employees must have completed at least ten (10) full years of service in this bargaining unit with the City of Lodi by the beginning of the preceding time period being evaluated (i.e. to be eligible for consideration in November of 2004, an employee shall have had to complete ten (10) full years of service by June 30, 2004).
2. Employees must have, at a minimum, a rating of satisfactory in all categories listed on the performance evaluation.
3. Special duty assignments shall include but are not limited to: Associate member of team (maintaining team qualifications and training hours); Actively participating in team deployments; Participation in Wildland fire deployment; Performing fire investigations; Public education activities; ROP program instruction; Active committee participation; SOP design and

implementation; Training class instruction; Participation with civic/community organizations.

4. Employees must not have received discipline issued beyond an oral reprimand.
5. Employees must not have received a positive drug test.
6. Employees must have worked eight months during the qualifying period.

Employees must have met the minimum qualifications by the beginning of the preceding time period being evaluated.

#### 14.3 Evaluation of Application (Process):

The PIB process shall consist of a committee evaluation, conducted on an annual basis and shall be based upon the preceding year's evaluation (July – June), and the events, activities, and actions during this same period of time.

An evaluation committee shall be appointed to review and evaluate the applications. The evaluation committee will be composed of two (2) representatives from the LPF, two (2) representatives from Fire Department management, and one (1) representative from the Human Resources Department.

Applications for PIB must be made in writing on the designated application form within the time period allotted by the evaluation committee.

Applicants shall be evaluated only upon written documentation including but not limited to what is provided in applicants' application, their performance evaluation and any actions and events during the rating period including but not limited to the following: attendance, disciplinary actions, service awards, commendations, etc.

The criteria used by the evaluation committee shall be determined and developed in advance of implementation by Human Resources and the Fire Chief and subject to discussion with a representative from LPF.

The decision of the committee shall be provided to each applicant in writing. The vote of the committee shall be in confidence. Members of the committee are obligated to maintain confidentiality in respect to all committee processes including voting. No committee member shall disclose to any person outside the committee any discussion of the committee or information on voting or specific votes of committee members.

The decision of the evaluation committee to grant or deny a PIB is final and binding, shall not be appealed, and is not subject to any grievance procedure. Any



perceived technical errors regarding minimum qualifications for the bonus may be resubmitted for further review by the committee.

## **Chapter 2. Leaves**

### **ARTICLE XV- CATASTROPHE BANK**

- 15.1 LPF members shall be covered by and subject to the Citywide Catastrophic Leave Policy set forth in the City's current Administrative Policy Manual.

### **ARTICLE XVI- HOLIDAYS**

- 16.1 Shift Employees in the LPF shall earn 156 hours of holiday leave per year. In January of each year, every shift employee's holiday account shall be credited with 156 hours. Employees hired mid-year or terminating mid-year shall have holiday hours credited or deducted at the rate of 6.0 hours per pay period.
- 16.2 A shift employee may opt to schedule holidays or to be compensated at the straight time rate for all hours of holiday leave. During the course of the year, an employee who opted to use his holidays may at his request and at the sole discretion of the Fire Chief, schedule a day off in lieu of cash payment. Each year, the pay period in which December 1 falls, employees shall be paid for the unused holidays at the straight-time rate as of December 31 of the year in which the holidays were earned.
- 16.3 Non-shift employees shall observe 9 1/2 fixed holidays per year:

◇ New Year's Day	January 1
◇ Martin Luther King Day	3 <sup>rd</sup> Monday in January
◇ President's Day	3 <sup>rd</sup> Monday in February
◇ Memorial Day	4 <sup>th</sup> Monday in May
◇ Independence Day	July 4
◇ Labor Day	1 <sup>st</sup> Monday in September
◇ Thanksgiving Day	4 <sup>th</sup> Thursday in November
◇ Day after Thanksgiving Day	Friday following Thanksgiving Day
◇ Christmas Eve (four hours)	December 24
◇ Christmas Day	December 25

The employee shall also be granted four additional holidays to be taken at a time mutually agreeable to the employee and the Fire Chief.

If a scheduled holiday falls on a regularly scheduled day off the employee shall take the days off the day preceeding or day succeeding the holiday. Floating holidays shall be prorated upon hiring and termination at the rate of one holiday for each three-month period worked.

- 16.4 Nothing in this MOU is construed to change the manner in which holidays or vacations are scheduled.
- 16.5 It is mutually agreed that two represented employees per shift shall be allowed to schedule vacations or holiday time. Leave for sickness, injury, or leave for school shall not effect this time off.

## **ARTICLE XVII - LEAVES OF ABSENCE**

### **17.1 Leaves Of Absence**

The City and LPF mutually agree that inability to return to work after an employee's sick leave has been exhausted shall be considered an urgent and substantial reason for the granting of a leave of absence in accordance with the Leave of Absence policy in the City of Lodi Administrative Policy Manual.

- 17.2 The City interprets this Section as providing that the conditions under which an employee shall be restored to employment on the termination of leave of absence shall be stated as clearly as possible at the time by the City in conjunction with the granting of the leave of absence. The City reaffirms its policy that an employee's status as a permanent employee is not impaired by such leave of absence.
- 17.3 Employees who are placed in a Leave Without Pay status following the expiration of sick leave, vacation, or compensatory time off, such that the employee is no longer in a pay status shall not receive employer paid employment benefits. However, if the leave is for medical reasons the medical insurance ~~will~~ **shall** be carried for three months at the City's expense. Other health benefits may be continued at the employee's expense.
- 17.4 Firefighters are entitled to leave without pay or other benefits for up to four months from the date of disability for disabilities because of pregnancy, miscarriage, childbirth, or recovery therefrom when sick leave has been exhausted. The date on which the employee shall resume duties shall be determined by the employee on leave and the employee's physician.
- 17.5 An employee on leave for pregnancy disability under this policy shall be entitled to return to the same position, or to a position comparable to that held at the time the

leave commenced. A physician's release must be provided prior to an employee's return to work.

- 17.6 An employee seeking pregnancy/disability leave shall be required to provide a reasonable notice in writing (not less than four weeks) to the City of the anticipated date upon which leave shall commence, although the commencement date shall vary according to the employee's actual disability. She must also provide an estimate of the duration of the leave.

### **ARTICLE XVIII - SICK LEAVE**

- 18.1 Shift employees shall accumulate sick leave with pay at the rate of 5.54 hours per pay period. Employees working a 40-hour week shall earn 3.69 hours per pay period.
- 18.2 Sick leave accumulated shall be unlimited.
- 18.3 One working day is defined as 12 work hours (1 duty day) for all LPF personnel working on a shift schedule.
- 18.4 Absence to care for a member of an employee's immediate family is authorization to use up to 72 hours of accumulated sick leave. Generally no more than 120 hours of family sick leave shall be approved in one calendar year.

### **ARTICLE XIX - VACATION**

- 19.1 From 0 through 5 years of continuous employment, vacation accrues at the rate of 5.54 hours per pay period.
- 19.2 From 6 through 15 years of continuous employment, vacation accrues at the rate of 8.31 hours per pay period.
- 19.3 At the completion of 15 years of continuous employment, vacation accrues at the rate of 11.08 hours per pay period.
- 19.4 At the completion of 25 years of continuous employment, vacation accrues at the rate of 13.85 hours per pay period.
- 19.5 One (1) working day is defined as twelve (12) work hours (1 duty day) for all Fire Department personnel working on a shift schedule.

## **Chapter 3. Insurance and Retirement**

### **ARTICLE XX – CHIROPRACTIC INSURANCE**

20.1 Chiropractic coverage, up to a maximum of \$750, shall be included in the medical insurance plan.

20.2 Notwithstanding the addition of chiropractic coverage to the medical plan, the following individuals shall continue to be allowed to receive chiropractic services from their present chiropractors and be reimbursed for such chiropractic care and chronic physical therapy to a maximum benefit of 80% of the first \$750 of coverage charges per fiscal year (July 1 to July 1) per person.

COVERED INDIVIDUALS  
Newman, Richard and Jackie

PRESENT CHIROPRACTORS  
Dr. Bader, Lodi

20.3 The City shall pay the full costs of premiums for the employee and dependent(s) during the life of this agreement.

### **ARTICLE XXI - DENTAL INSURANCE**

21.1 The City shall provide Stanislaus Foundation dental plan or an equivalent level of benefits for the term of this agreement.

21.2 The City shall pay the increased cost of such premiums for the life of the agreement.

### **ARTICLE XXII - MEDICAL INSURANCE**

22.1 All employees shall be offered medical insurance for themselves and dependents through CalPERS medical plans. The City shall pay 100% of the premium for employees only up to the highest HMO available in Lodi. The City shall pay the balance for the highest cost HMO Plan available in Lodi for the employee with one dependent less \$80.00 per month, and employee with a family less \$104.00 per month.

22.2 Any employee who is otherwise covered by a medical plan and chooses not to utilize the full extent of medical coverage available to him or her and, as

applicable, to his or her dependent(s) may opt to receive fifty (50) percent of the highest HMO plan referenced in 22.1 provided however, that (a) such election shall only be available to the extent allowed by the City's insurer, and (b) this shall not be construed to allow individuals without dependents to receive any portion of the dependent premium.

### **ARTICLE XXIII - RETIREMENT PLAN**

- 23.1 The City shall provide the PERS retirement program commonly known as the "3% at 50 program". Said program shall include the following additional benefits:

1959 Survivor benefits - third tier  
Single Highest Year  
Sick Leave Conversion  
Military Service Credit

- 23.2 The City shall pay into each employee's PERS account 9.0%.

### **ARTICLE XXIV - SICK LEAVE CONVERSION**

- 24.1 For all unused sick leave, a represented employee with ten years of employment with the City shall be eligible to receive medical, dental and vision insurance coverage upon retirement (but not upon resignation, transfer or termination) on the following basis:

After 10 years of employment by the City, the number of hours of unused sick leave shall be reduced by 16 2/3%. The remaining balance shall be converted into an equivalent number of days. (**NOTE:** A day is equivalent to 12 hours for employees on a 56-hour week schedule and 8 hours for an employee on a 40-hour week schedule). The number of days shall be multiplied by the then current monthly premium being paid for the employee and if applicable his dependents. 50% of that dollar value shall be placed into a "bank" to be used for medical, dental and vision insurance premiums for the employee and dependent. For each year that an employee has been employed in excess of 10 years, 2 1/2% shall be added to the 50% before valuing the unused sick leave, not to exceed 100% of that dollar value.

For example:

Robert Smith retires with 20 years service and 1800 hours of unused sick leave. Monthly medical insurance premiums are \$344.45 for him and his wife.

$$\begin{aligned}1800 - (1800 \times 16 \frac{2}{3}) &= 1500 \text{ hours} \\1500 \div 12 &= 125 \text{ days} \times 75\% = 93.75 \\93.75 \times \$344.45 &= \$ 32,292.19\end{aligned}$$

This amount shall be reduced each month by the current premium(s) for the employee and dependent until the balance is gone. In the event the retiree dies the remaining bank shall be reduced by 50% and the survivor may use the bank until the balance is gone.

- 24.2 In the event an active employee dies before retirement and that employee is vested in the sick leave conversion program, the surviving dependents shall have an interest in one-half the value of the bank as calculated in Section 24.1.
- 24.3 Represented employees who retire on a service retirement and are eligible to convert accrued, unused sick leave into City paid insurance upon retirement shall be given the option of purchasing, at the retiree's cost, additional insurance for a period of time equal to the period of time for which they received City paid insurance upon retirement.

Employee's option shall be exercised upon expiration of the City paid coverage.

- 24.4 In accordance with the sick leave conversion provision outlined in this MOU, a surviving spouse of either an active or retired member may be continued on the medical insurance plan and/or dependent coverage at the appropriate premium for the same period as if the employee had not died.
- 24.5 An employee eligible for the sick leave conversion program defined in Section 24.1 may choose instead to receive a cash settlement for all or part of unused sick leave at the rate of \$.30 on the dollar. Under this provision, the employee's sick leave balance at the time of retirement shall be converted to dollars at the employee's current pay rate.
- 24.6 Out of area retirees may receive reimbursement for insurance premiums up to the City's liability as specified in Section 24.1.
- 24.7 The City agrees to modify its contract with PERS to add credit for unused sick leave per Government Code Section 20862.8. This benefit is available to all employees regardless of the date hired; however, it is the only sick leave conversion benefit available to employees hired after December 6, 1995. Reporting of unused sick leave shall be pursuant to PERS regulations on said issue. If an eligible employee opts to utilize the provisions of Section 24.1 the City shall report to PERS they have zero (0) hours of unused sick leave.

**ARTICLE XXV- VISION CARE**

- 25.1 The City shall provide and pay for a vision care plan underwritten by VSP or comparable vision care plan. Such comparable vision care plan shall be the same as the plan offered to mid and executive management employees in the City. The plan shall have a \$25 deductible, will provide annual examinations and lenses. Frames are available every two years.

**Chapter 4. Safety****ARTICLE XXVI - SAFETY COMMITTEE**

- 26.1 A six-member Joint Safety Committee shall be formed to include three members of the LPF. This committee shall be charged with reviewing and making proposed solutions to items relating to safety standards, equipment, procedures, clothing and other safety related matters.

**Chapter 5. Work Hours, Schedules, Meals****ARTICLE XXVII- 56-HOUR WORK WEEK**

- 27.1 The work schedule of Firefighters shall be a work schedule of "56 hours per week" with three on-duty shifts in nine 24-hour periods. For purposes of the FLSA, it is mutually understood the City has declared a 27 day work cycle.
- 27.2 If an employee assigned to a 56 hour work week schedule terminates his/her employment in the middle of a two week payroll cycle, the employee's pay for that

cycle shall be computed by multiplying the number of days between the first day of the payroll cycle and the last shift worked by eight (8) hours or the number of actually worked in that payroll cycle, whichever is greater.

27.3 It is agreed that the work schedule of the Fire Inspector is a 40-hour week and that all holiday, vacation, and sick leave benefits are based on a 40-hour week rather than a 56-hour week.

27.4 In order to convert the hours for employees that move from a 40 hour work week to a 56 hour work week the following formulas shall be applied:

For conversion of Vacation:

From 40 to 56 hours.....Multiply by 1.8

From 56 to 40 hours.....Multiply by .555556

For conversion of Holiday and Sick Leave and Comp Time:

From 40 to 56 hours.....Multiply by 1.5

From 56 to 40 hours.....Multiply by .666667

#### **ARTICLE - XXVIII - FLEXIBLE STAFFING**

28.1 For all employees hired prior to December 6, 1995: Upon successful completion of all education, performance and longevity requirements, the employee shall be promoted to Fire Engineer. EXCEPTION: If a current Fire Engineer promotional list is in place, employees hired prior to December 6, 1995 shall be placed at the bottom of the current Fire Engineer promotional list and promote at the expiration of the current Fire Engineer Promotional list. This article will expire one year from the date this MOU is adopted by the City Council.

#### **ARTICLE XXIX - SHIFT TRADES**

29.1 It is mutually agreed that each employee may trade shifts.

Employees on initial probation shall not be entitled to participate in a shift trade except that a shift trade shall be permitted for job related educational purposes.

29.2 It is expressly understood that shift trades are requested by employees on a voluntary basis and are granted exclusively for employee convenience.

29.3 A shift trade commitment shall be considered the equivalent of the employee's regularly assigned work day. Any member of the bargaining unit who agrees to a



shift trade, but fails to report to work the agreed shift without a valid excuse may be subject to disciplinary action. An employee who agrees to exchange time with another employee and who then fails to report to work the agreed time because of illness, or who reports, but leaves early due to illness, may be required to provide a doctors note to verify the illness.

- 29.4 In the event that the person who had agreed to work is unable to do so, he/she shall make the necessary arrangements to fulfill the obligation. This can be accomplished by: trading with another employee meeting the shift trade requirements; forfeiting sick, holiday, compensatory time, or vacation time, whichever is appropriate based on department policy; or injury leave if appropriate.

## **Chapter 6. Association/City Issues**

### **ARTICLE XXX - ALCOHOL, SMOKING AND DRUGS**

- 30.1 No member of the Fire Department hired after October 1, 1987 may at any time use any form of tobacco. This prohibition is considered a condition of employment.
- 30.2 The LPF shall be covered under the *Drug-Free Workplace* policy and procedure. In addition, the LPF shall be covered under the *Drug and Alcohol Testing* policy and procedure with the exception of random testing. (Section 34520(e) of the California Vehicle Code exempts fire employees from the provisions of the Omnibus Transportation Employee Testing Act of 1991.)
- 30.3 In the event an employee is involved in an accident while operating a City vehicle the employee is not to leave the scene of the accident until a determination for drug and/or alcohol testing has been made by the appropriate supervisor.
- 30.4 In the event an employee is being referred to drug and/or alcohol testing, the employee has the right to representation or have a witness. Such witness may include an on-duty employee, as long as there is no interference with business necessity.
- 30.5 Supervisors directing an employee to drug and/or alcohol testing shall document at the time of direction the reason(s) for such determination of the *Reasonable Suspicion Test* form, and present that form to the employee.
- 30.6 The reporting of prescription medication being taken by an employee to his/her supervisor shall be kept in confidence.

- 30.7 In the event an employee's locker or storage area is to be searched, the employee has the right to representation or have a witness. Such witness may include an on-duty employee, as long as there is no interference with business necessity.
- 30.8 If a member of the Fire Department has a drug, tobacco or alcohol problem or dependence, the City shall pay the difference between the employee's insurance and the cost of an appropriate rehabilitation program.

### **ARTICLE XXXI - CITY RIGHTS**

- 31.1 It is further understood and agreed between the parties that nothing contained in this MOU shall be construed to waive or reduce any rights of the City, which include, but are not limited to, the exclusive rights:
- ◇ to determine the mission of its constituent departments, commissions and boards;
  - ◇ to set standards of service;
  - ◇ to determine the procedures and standards of selection for employment;
  - ◇ to direct its employees;
  - ◇ to maintain the efficiency of governmental operations;
  - ◇ to determine the methods, means and personnel by which government operations are to be conducted;
  - ◇ to take all necessary actions to carry out its mission in emergencies; and
  - ◇ to exercise complete control and discretion and the technology of performing its work.
- 31.2 City rights also include the right to determine the procedures and standards of selection for promotion, to relieve employees from duty because of lack of work or other legitimate reasons, to take disciplinary action, and to determine the content of job classifications; provided, however, that the exercise by the City of the rights in this paragraph does not preclude employees or their recognized employee organizations from filing grievances regarding the practical consequences that decisions on such matters may have on wages, hours or other terms and conditions of employment.

**Article XXXII - Complete Agreement**

- 32.1 The parties acknowledge that during the negotiations which resulted in this MOU, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the scope of negotiations, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in the MOU. Any other prior existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

**ARTICLE XXXIII - CONCERTED ACTIVITIES**

- 33.1 Represented employees agree that they shall not strike, withhold services, engage in "slow downs" or "sick ins" or participate in any other form of concerted activity which is intended to or which does adversely affect job performance or rendering of City services.

**ARTICLE XXXIV - EMPLOYEE REPRESENTATION**

- 34.1 This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into between representatives of the City of Lodi (hereinafter referred to as "City") and representatives of the Lodi Professional Firefighters (hereinafter referred to as "LPF").

The parties to this MOU acknowledge and agree that this MOU constitutes the result of meeting and conferring in good faith as contemplated by Section 3500 et seq. of the Government Code of the State of California, and further acknowledge and agree that all matters upon which the parties reached agreement are set forth in this MOU.

The terms and conditions of this MOU are applicable to those employees in those positions represented by the LPF of the City of Lodi, i.e., Firefighter I, Firefighter II, Fire Engineer, Fire Captain, and Fire Inspector. It is mutually agreed that wages, hours, and other terms and conditions of employment of such employees shall be as hereinafter set forth. Except as specifically stated in this Memorandum, all existing benefits currently being furnished to employees and all existing terms and conditions of employment are to continue in effect unless and until the parties meet and confer regarding a change in such existing benefits, terms or conditions of employment.

The terms and conditions of this MOU shall continue in effect during the term of this MOU. The parties agree as follows:

- 34.2 The City and the LPF mutually agree that the City shall grant dues deduction to City employees who are members of the LPF in accordance with the terms and conditions set forth in Section 4, Rule 2 of City of Lodi Resolution No. 3344 entitled "Adopting Rules and Regulations to Implement Provisions of the Employee-Employer Relations Resolution." The LPF shall indemnify, defend and hold the City of Lodi harmless against any claims made and against any suit instituted against the City of Lodi on account of check-off of said employee organization's dues. In addition, the LPF shall refund to the City of Lodi any amounts paid to it in error upon presentation of supporting evidence.

Changes in the LPF membership dues rate shall be certified to the City, in writing, over the signature of the LPF President. The change shall be implemented as soon as practicable, but in no event later than thirty (30) days after the notification.

- 34.3 LPF shall maintain exclusive representation rights during the term of this MOU. Every employee covered by this MOU who is a member of LPF twenty (20) days after the signing of this MOU shall, as a condition of employment, maintain his or her membership in good standing in accordance with the Constitution and Bylaws of the LPF during the term of this agreement.
- 34.4 No employee covered by this Memorandum of Understanding shall be discriminated against by the City or by the Union with respect to any job benefits or other conditions of employment accruing from this agreement because of union membership, non-membership in the union, race, color, sex, creed, national origin, marital status, disability or political affiliation. It is understood that violations of this section are not subject to arbitration.
- 34.5 The City shall make available a period of one hour to the LPF in each recruit class with an end toward education of each employee of the rights and benefits under the collective bargaining agreement, as well as other association benefits, and the responsibilities of the employee and the association.
- 34.6 The City and LPF agree and understand that if any section of this MOU in any way conflicts with the terms and conditions of employment stated in other authorities, such as personnel rules, administrative policy and procedure manual, city resolutions, or city ordinances, any ambiguity shall be resolved in favor of the MOU language. If the MOU is silent on an issue, the current applicable document (i.e. policy manual) is controlling.
- 34.7 Members of the Lodi Professional Firefighters may contribute, individually, to an hourly account bank. This bank shall be monitored and administered by the Lodi Professional Firefighters Secretary. Hours may not exceed more than 600 hours on a yearly basis. The President of the Lodi Professional Firefighters shall designate members that can use the hours. No more than two persons shall be off at a time

and this shall not effect the regular time off calendar. Five days notice must be given to the Fire Chief prior to using the bank. Hours may be donated from member's vacation leave, holiday leave or compensatory time off. The member's leave account shall be charged an equivalent amount of time required to cover the absence of the member utilizing the LPF bank. A form shall be generated for this purpose by the Lodi Professional Firefighters to notify the Fire Chief and Finance.

## **ARTICLE XXXV - GRIEVANCE PROCEDURE**

- 35.1 This grievance procedure shall be used to process and resolve disputes regarding the interpretation or application of any of the terms and conditions of this MOU, letters of understanding, and formal interpretations and clarifications executed by the LPF and the City.

The intent of this procedure is to resolve grievances informally at the lowest possible level and to provide an orderly procedure for reviewing and resolving grievances promptly.

The term "day" means a working day i.e. Monday through Friday excluding fixed City Hall holidays.

A grievance is a good faith complaint of one or a group of employees or a dispute between the City and the LPF involving the interpretation, application, or enforcement of the express terms of this Agreement and other express written terms and conditions of employment or clear past practices.

As used in this procedure, the term "party" means an employee, the LPF, the City or the authorized representatives of any party. The employee is entitled to representation through all the steps in this procedure.

Matters of discipline are to be handled exclusively in accordance with the provisions of section 35.4.

### **35.2 INFORMAL PROCEDURE**

The informal procedure must be used as an initial step in all grievances. An employee or their representative having a grievance arising from employment in the municipal service shall seek adjustment of the grievance initially through verbal contact with their immediate supervisor within twenty (20) working days of the date of the action being grieved, or the date the grieving party became aware of the incident which is the basis of the grievance. The employee or his/her representative shall state the nature of the grievance and any pertinent information required for the supervisor to sufficiently investigate the incident and resolve the grievance. Should the immediate supervisor be unable to make a satisfactory adjustment, the

employee or their representative may seek adjustment through verbal contact to the next higher level of supervision up to and including the Fire Chief. The time allowed between steps in this process is ten (10) working days. All verbal contacts shall be documented as to the date, time and place of the contact.

In matters involving disputes between two employees (including personality conflicts between an employee and his/her supervisor), the two employees should meet in an attempt to resolve their differences. If they cannot resolve the issues between themselves, the complaint procedure outlined in the Lodi Fire Department Policy Manual shall be used as the Informal Grievance Procedure.

Should the employee progress through the above steps and find that the Fire Chief is unable to make a satisfactory adjustment within the time frame given, or is a party to the grievance, the employee or his representative may seek adjustment through the Formal Grievance Procedure.

### 35.3 FORMAL PROCEDURE

An employee who has not received satisfactory adjustment through the use of the Informal Grievance Procedure may, within ten (10) working days of the last time deadline of the Informal Procedure, file a Formal Grievance. Initiation of the formal grievance procedure requires that the grievance be submitted in writing. The steps of the Formal Grievance Procedure are as follows:

- Step A. Class Action Grievances or a Lodi Fire Department Grievance Form is filed with the Fire Chief. If satisfactory adjustment is not attained the employee or his/her representative may proceed to Step B within ten (10) working days.
- Step B. Class Action Grievances or A Lodi Fire Department Grievance Form is filed with the City Manager. The City Manager or designee shall investigate the grievance and shall respond in writing within ten (10) working days. If satisfactory adjustment is not attained the employee or his representative may proceed to Step C within ten (10) working days.
- Step C. If the grievance is not resolved by the City Manager or designee, arbitration shall be the final level of appeal for grievances and discipline. It is agreed by both parties that the decision of the arbitrator is binding and final on both parties and that if this procedure is utilized all other avenues of appeal are waived. If arbitration is chosen the City must be notified by the grievant or his/her representative within fifteen (15) working days following the City Manager's decision.

Within ten (10) working days after the request for arbitration is received by the City or at a date mutually agreed to by the parties, the parties shall meet to select an impartial arbitrator. If no agreement is reached at this meeting, the parties shall immediately and jointly request the State Conciliation and Mediation Service to submit to them a panel of five (5) arbitrators from which the City and the LPF shall alternately strike names until one (1) name remains; this person shall be the arbitrator. If the State Conciliation and Mediation Service cannot provide a list of five (5) arbitrators, the same request shall be made of the American Arbitration Association.

To insure that the arbitration process is as brief and economical as possible, the following guidelines shall be adhered to:

1. An arbitrator may, upon mutual consent of the parties, issue a decision, opinion or award orally upon submission of the arbitration.
2. Both parties and the arbitrator may tape record the hearing.
3. There shall be no official transcript required; however, either party may utilize a court reporter at its own sole expense. The cost of a court reporter required by an arbitrator shall be shared equally by the parties.
4. The parties may agree to prepare a joint letter submitting the issue(s) in dispute. The letter shall present the matter on which arbitration is sought and shall outline the MOU provisions governing the arbitration. It may contain mutually agreed on stipulations of fact and it may be accompanied by any documents that the parties mutually agree shall be submitted to the arbitrator in advance of the hearing which may not necessarily be stipulations of fact. Further, if the parties mutually agree, the entire matter may be submitted to arbitration for review without a hearing. Absent agreement to prepare a joint letter, the parties may submit separate letters.
5. The strict rules of evidence are not applicable but shall be of a type or kind relied upon by prudent people in the conduct of serious business and the hearing shall be informal.
6. The parties have the right to present and cross examine witnesses issue opening and closing statements, and file written closing briefs. Testimony shall be under oath or affirmation.
7. The arbitrator may exclude testimony or evidence which he/she determines irrelevant or unduly repetitious.

8. The arbitrator may exclude witnesses from the hearing at his or her discretion.
9. The arbitration hearing shall be held on the employer's premises.
10. The cost of arbitration shall be borne equally by the parties. However, the cost, if any, of cancellation or postponement shall be the financial responsibility of the party requesting such delay unless mutually agreed by the parties.

The decision, opinion, or award shall be based on the record developed by the parties before and during the hearing, unless otherwise agreed to by the parties. The decision shall be in writing and shall contain the crucial reasons supporting the decision and award.

The arbitrator has no power to add to, subtract from, or modify the terms of the MOU or the written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City or management to do an act prohibited by law.

The arbitrator has no power to add to a disciplinary action.

The arbitrator's decision shall be final, binding, and precedential and the arbitrator's decision shall possess the authority to make an employee whole to the extent such remedy is not limited by law, including the authority to award back pay, reinstatement, and to issue an order to expunge the record of all references to a disciplinary action if appropriate.

If the City believes that the matter is not arbitrable and/or not grievable, the matter shall be bifurcated. The parties shall select an arbitrator to hear the issue of arbitrability only. In the event that the arbitrator determines the matter to be arbitrable, the parties shall select a second arbitrator to hear the merits of the case.

By filing a grievance and processing it beyond the City Manager the grievant expressly waives any right to statutory remedies for the same contract remedies that were available through arbitration or to the exercise of any legal process other than is provided by the



grievance/arbitration procedure for those contractual remedies under this contract. The process in a grievance beyond the City Manager shall constitute an express election on the part of the grievant that the arbitration procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant shall not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of these paragraphs to preclude the enforcement of any arbitration award in any court of competent jurisdiction.

Allegedly discriminatory acts by the city may be addressed through the judicial system, DFEH, EEOC, and/or the City's internal complaint procedure system as provided by law. Allegedly discriminatory acts are not subject to this procedure.

#### 35.4 GRIEVANCE INVOLVING A DISCIPLINARY ACTION

This section sets forth the exclusive means for grieving disciplinary actions in the form of a written reprimand, demotion, suspension or dismissal. In the event the employee wishes to challenge the City Manager's final decision on such discipline, the employee shall appeal the decision to binding arbitration, commencing with Step C of Article 35.3 of this Agreement. All other, lesser forms of discipline shall be reviewable by the Fire Chief without a further right of appeal.

35.5 A grievance resulting from a formal reprimand shall be reviewable by the Fire Chief without further review right. Any suspension resulting from an ongoing, progressive disciplinary process involving a formal reprimand, shall cause the formal reprimand to be reviewable at the same level as the suspension.

35.6 Suspensions of two (2) days (1 – 24 hour shift) or less (or monetary equivalent) shall be reviewed by the City Manager or his/her designee, with formal hearing at the option of either party with witnesses under oath.

35.7 Discipline exceeding a suspension of two (2) days (1 – 24 hour shift) or more (or monetary equivalent) may be subject to final and binding arbitration. The provisions of Article XXXV, section 32.3, Step C relative to final and binding arbitration shall apply.

### **ARTICLE XXXVI - LAYOFF PROCEDURE**

- 36.1 It is mutually agreed by both parties that the layoff procedure, incorporated in the Policy and Procedure manual, dated May 1, 1995 is included in this MOU by reference and it is further agreed that both parties interpret it to mean that time served in a higher level shall be counted at a lower level for purposes of determining order of layoff.

### **ARTICLE XXXVII - PHYSICAL FITNESS**

- 37.1 It is agreed that the physical fitness program shall be continued and shall meet the following goals:

1. Provide a complete physical examination on an annual basis. These examinations to be performed by professional medical staff contracted for by the City.
2. Provide a fitness assessment which will evaluate each individual employee's fitness as compared to the YMCA normative scores which are defined as:

*"a percentage based on fitness evaluations performed by the YMCA and are categorized according to age group and sex."*

The fitness assessments shall be performed by professional assessors contracted for by the City.

3. Provide an individual program of exercise based on age, sex and present physical condition.
4. Provide attainable goals for each individual which would be measurable through the fitness assessment provided.
5. Provide for in-house exercise activities.
6. Provide an exercise program which shall improve cardiovascular conditioning, body fat composition, flexibility, grip strength, abdominal strength, low back strength, chest (arm) strength, back strength, quadriceps and hamstring strength.

It is further agreed that:

1. The program shall be mandatory for all employees in the bargaining unit.
2. The program shall be scheduled as a high priority item and work out times shall normally be available between 0800 and 1700 hours excluding lunch

period and breaks. The City shall provide adequate equipment to carry out the intent of the program.

3. The equipment used for this program is not to be used by anyone other than City of Lodi Fire personnel.
4. Confidentiality of records shall be maintained for the protection of the employees.

#### **ARTICLE XXXVIII - PROBATION**

- 38.1 During probationary period, twelve (12) months, the new hire or promotional employee shall be entitled to sick leave benefits. Upon completion of probation, employees are eligible for merit increases.
- 38.2 Employees on initial probation may not utilize vacation accruals.
- 38.3 Except as required by State or Federal law, probationary releases are not appealable.

#### **ARTICLE XXXIX - SEVERABILITY**

- 39.1 In the event that any provision of this MOU is found by a court of competent jurisdiction to be invalid, all other provisions shall be severable and shall continue in full force and effect.

#### **ARTICLE XXXX - TERM**

- 40.1 This MOU covers the period from July 1, 2003 through June 30, 2006.

**END**  
**XXXXXX**

## ATTACHMENT 1

**SIDE LETTER RE RULES FOR PERSONNEL ADMINISTRATION  
BETWEEN  
THE CITY OF LODI AND THE LODI PROFESSIONAL FIREFIGHTERS**

---

The Rules for Personnel Administration shall be applicable to the firefighters bargaining unit, with the exception of the attached changes (2 pages), which comprise amendments to those rules in respect to the fire fighters bargaining unit.

Except as required by operational/or business necessity impacting City employees as a whole, there shall be no changes to the Rules for Personnel Administration during the term of this agreement. This does not prevent the parties from mutually agreeing to meet and confer over proposed changes to the Rules during the term of this Agreement.

Dated: \_\_\_\_\_

Dated:\_\_\_\_\_

\_\_\_\_\_  
Joanne M. Narloch  
City of Lodi

\_\_\_\_\_  
Pete Iturraran  
Lodi Professional Firefighters

**SCHEDULE A**

**LPF Positions**  
**Salary Schedule effective 10/1/2003**

Classification	Current Step E	2.5% COLA	Plus 3.5% Salary Adjustment				
			Step A	Step B	Step C	Step D	Step E
Fire Captain	5,442.28	5,578.34	4,749.94	4,987.43	5,236.81	5,498.65	5,773.58
Fire Engineer	4,701.25	4,818.78	4,103.18	4,308.34	4,523.75	4,749.94	4,987.44
Firefighter I	3,867.72	3,964.41	3,375.69	3,544.47	3,721.69	3,907.78	4,103.17
Firefighter II	4,264.13	4,370.73	3,721.67	3,907.75	4,103.14	4,308.29	4,523.71
Fire Inspector I	4,936.29	5,059.70	4,308.32	4,523.73	4,749.92	4,987.42	5,236.79



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution approving Memorandum of Understanding between City of Lodi and Association of Lodi City Employees (General Services)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Human Resources Director

---

**RECOMMENDED ACTION:** That the City Council approve the Memorandum of Understanding between City of Lodi and Association of Lodi City Employees (General Services).

**BACKGROUND INFORMATION:** The City has recently completed negotiations with the General Services bargaining unit. In November, 2003, the City Council accepted the tentative agreement with General Services. The agreement was subsequently ratified by the bargaining unit. A Memorandum of Understanding has been prepared and is now brought back to the City Council for formal adoption.

**FUNDING:** N/A

Respectfully submitted,

\_\_\_\_\_  
Joanne M. Narloch, Human Resources Director

cc: Interim City Attorney  
Mark Zollo, President

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF LODI AND THE ASSOCIATION  
OF LODI CITY EMPLOYEES (GENERAL SERVICES)

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approves the Memorandum of Understanding between the City of Lodi and the Association of Lodi City Employees (General Services), as shown on Exhibit A attached hereto; and

BE IT FURTHER RESOLVED that said Memorandum of Understanding shall be effective July 1, 2003 through June 30, 2005.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –  
NOES: COUNCIL MEMBERS –  
ABSENT: COUNCIL MEMBERS –  
ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_

MEMORANDUM OF UNDERSTANDING

CITY OF LODI

AND

ASSOCIATION OF LODI CITY EMPLOYEES

GENERAL SERVICES UNIT

July 1, 2003 – June 30, 2005



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Attachment A – Salary Schedule effective 12/8/03

Attachment B – Dollars to be added to salary schedule effective 7/1/04

City of Lodi  
And  
ALCE - General Services Unit  
2003-2005

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## Chapter 1 - Salaries and Other Compensation

### ARTICLE I – SALARY

- 1.1 Effective December 8, 2003, employees shall receive proposed increases shown in Attachment A. Stated increases include full implementation of the salary survey, (except for employees whose differentials exceed 10% who shall receive 50% December 8, 2003 and 50% effective the pay period in which July 1, 2004 falls - see Attachment B.) 3% survey update adjustment, and a 2.5% cost of living increase.
- 1.2 Effective the pay period in which July 1, 2004 falls, employees shall receive a cost of living increase based upon the consumer price index (CPI-W), San Francisco-Oakland-San Jose. The increase shall be no less than 2% and no greater than 4% and calculated using the April 2004 average that is issued by the Department of Labor.
- 1.3 Effective the pay period in which July 1, 2005 falls, employees shall receive a cost of living increase as indicated in 8.2, using the April 2005 average index referenced in 8.2.
- 1.4 The City and ALCE agree to meet and confer on benchmarks to be used in the next survey conducted in 2006.
- 1.5 The fifteen cities to be surveyed are as follows:
- |           |         |           |           |        |         |
|-----------|---------|-----------|-----------|--------|---------|
| Chico     | Clovis  | Davis     | Fairfield | Merced | Manteca |
| Modesto   | Redding | Roseville | Stockton  | Tracy  | Turlock |
| Vacaville | Visalia | Woodland  |           |        |         |

**ARTICLE II – COMPENSATORY TIME**

- 2.1 Employees may accrue compensatory time in lieu of overtime pay. The accrual rate for compensatory time shall be at the appropriate rate for overtime worked.
- 2.2 The decision to elect compensatory time or overtime pay may be made each time overtime is worked.
- 2.3 No more than eighty (80) hours of compensatory time may be carried on the books at any time.
- 2.4 An employee's decision to elect compensatory time instead of overtime pay is irrevocable.
- 2.5 Upon separation, the employee will be paid at the employee's current hourly rate of pay or the average of the last three years, whichever is higher, for the remaining compensatory balance.

**ARTICLE III – COURT APPEARANCES**

- 3.1 Employees summoned by a court for jury duty shall be granted jury duty leave with pay and may keep any jury duty compensation received. Voluntary grand jury service such as that service in San Joaquin County is not covered by jury duty leave.
- 3.2 If jury duty attendance is less than one-half of a normal working day, the employee is expected to return to work.
- 3.3 Employees assigned to shift work shall not be scheduled for regular work during the 12 hours preceding the scheduled time for jury duty.
- 3.4 If an employee has had jury duty of six hours or more during a 16 hour period immediately preceding the beginning of or following the end of his/her regular work hours on a work day, he/she will be given a rest period of six consecutive hours.
- 3.5 If an employee covered by this agreement is required by subpoena issued by an authority granted subpoena powers, to appear before it or to give a deposition as a result of an action taken within the scope of employment with the City that employee will receive his full pay while so doing with no loss of time if he/she is on regular duty. If the employee is not on duty the City agrees to compensate that employee at one and one half time his regular pay for the time spent in any appearance as required by this Article. As a prerequisite for payment to off-duty employees, the Department Head designee must be notified in writing of the off

duty appearance within seventy two hours after the employee is subpoenaed or otherwise notified of the required court appearance.

#### **ARTICLE IV – DEFERRED COMPENSATION**

- 4.1 The City shall match contributions by General Services employees to a deferred compensation program up to a maximum of 3.0% of the employee's salary.

#### **ARTICLE V – EDUCATION INCENTIVES**

- 5.1 Employees in sub professional engineering positions having the following certificates will receive an additional \$23.08 per pay period:
- A) Engineer in Training
  - B) Land Surveyor in Training
  - C) Land Surveyor
- 5.2 Employees designated by the Department Head and approved by the City Manager who have passed a bilingual proficiency examination administered by the City shall receive a monthly bilingual supplement of \$75.
- 5.3 Effective December 8, 2003, Police Records Clerks approved for bilingual pay shall receive \$150.00 per month.

#### **ARTICLE VI – FLEXIBLE SPENDING ACCOUNT**

- 6.1 The City will maintain a "flexible spending account" to conform to IRS regulations to be used for premium contributions, dependent care and/or un-reimbursable medical payments for unit members.

#### **ARTICLE VII – MILEAGE COMPENSATION**

- 7.1 Employees using their personal automobile for City business, with their department head's approval, shall receive mileage compensation equal to that

allowed by the Internal Revenue Service. City business does not include transportation to and from work or call backs due to emergencies.

Allowance increases shall be effective the first day of the month following the determination of an increase by the IRS.

## **ARTICLE VIII – OVERTIME**

8.1 Overtime work paid at the time and one half rate, is work performed by an employee outside his or her regular work hours, and includes time worked:

1. In excess of forty (40) hours in a work week.
2. In excess of eight (8) hours in a work day.
3. Time worked outside of regular hours of work on a work day unless notification has been made in accordance with Section 29.1 and 29.2.
4. Time worked on a non-work day.

Time worked on a holiday will be paid at time and one-half rate.

Overtime work paid at the double time rate is work performed in excess of twelve (12) hours, between 12 midnight and 12 midnight on any given day, or for any hours between the hours of 12 midnight and 6:00 a.m.

Hours worked on a holiday, as part of an employee's regular work schedule shall be compensated as above, plus regular straight time pay.

8.2 Employees who are required to report for prearranged work on their non-work days or holidays, shall be compensated at the overtime rate for actual hours worked, but in no event shall they be paid for less than three (3) hours.

8.3 **REST PERIOD**

If an employee has worked for six (6) hours or more at the overtime rate during the sixteen (16) hour period immediately preceding the beginning of his or her regular work hours, on a work day, he or she shall be given a rest period of six (6) consecutive hours at the completion of the overtime work. Compensation for the six (6) hour rest period shall be allowed at the straight time rate for those hours within the rest period which overlap the normal working hours.

8.4 Compensation paid to employees called out in emergency situations, outside their regular work hours, shall be a minimum of three (3) hours pay at the overtime rate. Additional call outs, during that day, shall be compensated at the overtime rate for actual hours worked with a one hour minimum. Only one call out

between the hours of 12:00 o'clock midnight and 12:00 o'clock midnight shall be compensated at the minimum three hour period.

8.5 When, at the request of the Supervisor in charge, and employee reports for prearranged overtime:

- (1) On work days outside of regular work hours, shall be paid overtime compensation for actual worked time in connection therewith, provided however, that if any such employee continues to work into regular work hours, shall be paid overtime compensation only for actual work time up to regular work hours.
- (2) On non-work days or on holidays, shall be paid overtime compensation for actual work time in connection therewith.

For the purpose of this Section, prearranged overtime work is deemed to be work for which advance notice has been given by the end of preceding work period on a work day.

#### **ARTICLE IX – TEMPORARY UPGRADE**

9.1 Any General Services employee who is assigned to duties and responsibilities of a higher classification for three (3) or more consecutive days will be compensated 5% above the salary which he or she is currently receiving.

#### **ARTICLE X – TOOLS AND UNIFORM ALLOWANCE**

10.1 The City agrees to provide all necessary uniforms and safety equipment for the following classifications in the General Services Unit:

Animal Control Officer	Assistant Animal Control Officer
Meter Reader	Parking Enforcement Assistant
Police Records Clerk I/II	Senior Storekeeper/Buyer
Storekeeper	

10.2 Quarterly uniform allowances shall be provided to the following General Services classifications:

- Animal Control Officer - \$150
- Assistant Animal Control Officer - \$150
- Meter Reader - \$75

- Parking Enforcement Assistant - \$150.00  
(Effective December 8, 2003)
- Police Records Clerk I/II - \$150

The uniform allowance shall be paid quarterly as part of the last bi-weekly payroll in the months of March, June, September, and December.

- 10.3 The City and the ALCE mutually agree that the City shall purchase appropriate foul-weather coats and boots as deemed necessary for field personnel.

### **ARTICLE XI – TUITION REIMBURSEMENT**

- 11.1 Tuition Reimbursement will be provided as stated in the City's Tuition Reimbursement Policy Dated July 1, 2003.
- 11.2 In the event that future changes in classification specifications require that certificates or other educational standards be implemented, the ALCE reserves the right to negotiate wage adjustments for affected classifications.

### **ARTICLE XII – WORKERS' COMPENSATION**

- 12.1 The City and ALCE mutually agree that when an employee is compelled to be absent from work due to injuries or illness arising out of and in the course of his or her employment, the City shall pay full compensation to any represented employee who becomes eligible for benefits under Workers' Compensation laws for the period of the time between the injury and the first day of eligibility for benefits. With the determination that the injury or illness is compensable in accordance with Workers' Compensation benefit criteria, the employees upon receiving said benefits such paid by Workers' Compensation shall also receive compensation from the City in an amount that when added to the Workers' Compensation payment shall equal the employees regular salary. The amount paid by the city shall, after the period from the date of injury and date of eligibility, be charged to the employee's sick leave account. The employee's regular deductions shall be made from the amount paid by the City.



## **Chapter 2 - Leaves**

### **ARTICLE XIII – ADMINISTRATIVE LEAVE**

- 13.1 It is understood and mutually agreed that employees historically receiving Administrative Leave benefits are exempt from the overtime provisions of this Article. The classifications affected are as follows:

Junior Planner	Junior Engineer	D.P Programmer/Analyst
Assistant Planner	Assistant Engineer	Librarian I/II
Associate Planner	Associate Civil Engineer	

### **ARTICLE XIV – CATASTROPHE LEAVE**

- 14.1 Catastrophe Leave will be available for all unit members who by reason of verifiable long term illness or injury exhausts all employee benefits. Catastrophe Leave will be funded by voluntary transfers of the dollar value of accumulated compensatory time, vacation and/or other time accumulated by the member.
- 14.2 Employees receiving Long Term Disability are not eligible for Catastrophe Leave benefits.
- 14.3 Donations shall be converted into dollar value and shall be drawn at the requesting employees pay step. All donations must be a minimum of four (4) hours and are irrevocable.

#### **EXAMPLE:**

Jane Doe, Recreation Supervisor donated 8 hours of leave to Joe Smith, Laborer:

Jane Doe makes \$18.99our                       $\$18.99 \times 8 \text{ hrs} = 151.92$

Joe Smith makes \$10.41/hour                       $\$151.92 \div \$10.41 = 14.59 \text{ hours}$

Joe Smith will be able to utilize 14.59 hours from Jane Doe's request.

- 14.4 Catastrophe Leave will be administered in accordance with the Catastrophe Leave Policy and Procedure. (See Catastrophic Leave Policy and Procedure Dated February 5, 2003). In addition to employees, spouses and dependent children, Catastrophe Leave may also be used for parents.

- 14.5 To be eligible to receive this benefit the employee must have first exhausted all accrued time. This benefit can not be used for more that six (6) consecutive months.

### **ARTICLE XV – FUNERAL LEAVE**

- 15.1 Regular employees shall be permitted to use sick leave, vacation leave, or compensatory time off to attend the funeral of a member of their immediate family, including the time the deceased may lie in state, the day of the funeral, and the time necessary to travel to and from the location of the funeral. Use of sick leave may not exceed three (3) working days. The immediate family shall be limited to an employee's:

spouse	parent	grandparent	grandparent-in-law
parent-in-law	child	grandchild	son-in-law
sister	stepchild	brother	daughter-in-law
half-brother	half-sister	foster parents	

- 15.2 A regular employee may use sick leave, vacation leave, or compensatory time off to attend the funeral of a person the employee may be reasonably deemed to owe respect. Use of sick leave may not exceed three (3) days for classifications in the General Services Unit.

### **ARTICLE XVI – HOLIDAYS**

- 16.1 Members of this Unit shall observe the following holidays:

• New Years Day	January 1
• Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
• President's Day	3 <sup>rd</sup> Monday in February
• Memorial Day	Last Monday in May
• Independence Day	July 4
• Labor Day	1 <sup>st</sup> Monday in September
• Thanksgiving Day	4 <sup>th</sup> Thursday in November
• Day after Thanksgiving Day	Friday following Thanksgiving Day
• Christmas Eve (4 hours)	December 24
• Christmas Day	December 25

In addition, each employee shall be granted an additional four (4) days of holiday leave (floating holiday) to be taken off at a time mutually agreed upon between the employee and the department head. Holiday leave cannot be carried over into the following calendar year.

- 16.2 Holidays which fall on the first regularly scheduled day off shall be observed on the preceding work day. Holidays which fall on any other regularly scheduled day off shall be observed on the next regularly scheduled work day, with the exception that if the next regularly scheduled work day is also a holiday, the first holiday shall be observed on the preceding work day.
- 16.3 The Library will be closed on the Saturday preceding any holiday observed by the City and the Library on a Monday. The Library will also be closed on the Saturday following the observance of a Saturday holiday on the preceding Friday by the City and the Library. The Library will be closed on Easter Sunday.
- 16.4 Holiday time may be taken in quarter hour increments.

## **ARTICLE XVII – LEAVE OF ABSENCE**

- 17.1 The City and the ALCE mutually agree that the inability to return to work after an employee's sick leave has been exhausted shall be considered an urgent and substantial reason for the granting of a leave of absence in accordance with the Administrative Policy and Procedure Manual, Leave of Absence Policy.
- 17.2 The City interprets this Section as providing that the conditions under which an employee shall be restored to employment on the termination of leave of absence shall be stated as clearly as possible at the time by the City in conjunction with the granting of the leave of absence. The City reaffirms its policy that an employee's status as a regular employee is not impaired by such leave of absence.
- 17.3 City employees who are working are entitled to use sick leave, vacation leave, administrative leave, or long-term disability leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing leaves of absence for other illnesses or medical disabilities. Long-term disability leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee's physician; however, the City may require a verification of the extent of disability through a physical examination of the employee by a physician appointed by the City at City expense.
- 17.4 An employee on leave for pregnancy disability under this policy shall be entitled to return to the same position or to a position comparable to that held at the time the leave commenced. A physician's release must be provided to the appropriate supervisor prior to an employee's return to work.

- 17.5 An employee seeking pregnancy/disability/family care leave shall be required to provide a request in writing (not less than four weeks) to the Supervisor of the anticipated date upon which leave shall commence and end, although the commencement date may vary according to the employee's actual disability.
- 17.6 Employees who are placed in a Leave Without Pay status following the expiration of sick leave, vacation, compensatory time off, administrative leave, or long-term disability leave such that the employee is no longer in a pay status shall not receive employer paid employment benefits.

Employees placed in a Leave Without Pay status due to disability will continue to receive a three-month (3) extension of:

- (1) Medical coverage following the month in which the employee is placed in such status. Other benefits include:
- (2) Dental, Vision, or Medical coverage past the three-month extension period, may be continued at the employee's expense.

#### **ARTICLE XVIII – SICK LEAVE**

- 18.1 Effective December 8, 2003, full time employees shall accumulate sick leave at the rate of 3.70 hours per pay period. (12 days per year)
- 18.2 Sick leave may be accumulated up to an unlimited amount.
- 18.3 Employees will be able to use family sick leave for parents or children not residing with the employee consistent with City policy of use of family sick leave for family members illnesses.

#### **ARTICLE XIX – VACATION LEAVE**

- 19.1 0 to 1 year – none. However, at the completion of twelve (12) continuous months of service, eighty (80) hours of vacation shall be credited to the employee's account.
- |  |  |
|--|--|
| 1 <sup>st</sup> through 5 <sup>th</sup> year   | 3.08 hours per pay period (10 days per year) |
| 6 <sup>th</sup> through 11 <sup>th</sup> year  | 4.62 hours per pay period (15 days per year) |
| 12 <sup>th</sup> through 14 <sup>th</sup> year | 5.24 hours per pay period (17 days per year) |
| 15 <sup>th</sup> through 20 <sup>th</sup> year | 6.16 hours per pay period (20 days per year) |

- |                              |  |
|------------------------------|--|
| 21 <sup>st</sup> year        | 6.47 hours per pay period (21 days per year) |
| 22 <sup>nd</sup> year        | 6.78 hours per pay period (22 days per year) |
| 23 <sup>rd</sup> year        | 7.09 hours per pay period (23 days per year) |
| 24 <sup>th</sup> year        | 7.40 hours per pay period (24 days per year) |
| 25 <sup>th</sup> year & over | 7.71 hours per pay period (25 days per year) |
- 19.2 If a conflict arises in the scheduling of vacations for employees in the same classification, the conflict shall be resolved in favor of the employee with the greatest seniority. The senior employee shall receive one first choice in any scheduling period.
- 19.3 For all persons hired after September 1, 1995 the maximum vacation accrual will be 6.16 hours per pay period.

## **Chapter 3 – Insurance and Retirement**

### **ARTICLE XX – CHIROPRACTIC**

- 20.1 The City agrees to pay all costs of premiums for employees and dependents for a chiropractic plan equivalent to the Landmark chiropractic plan.

### **ARTICLE XXI – DENTAL INSURANCE**

- 21.1 The City agrees to provide a dental plan equivalent to the Delta Premier dental plan (group number 4381) to all employees and their dependents. Effective January 19, 2004, the City shall pay the full cost for the employee dental premium and one-quarter the premium for dependents for the term of this agreement.

### **ARTICLE XXII – LIFE INSURANCE**

- 22.1 A life insurance program providing \$10,000 term life insurance which includes a \$10,000 Accidental Death and Dismemberment coverage for the employee. Said amount of insurance to reduce to \$6,500 at age 70, and to decrease to \$5,000 at age 75. In addition, a spouse, unmarried dependent children between the ages of 6 months and 21 years, unmarried student dependent children to 23<sup>rd</sup> birthday, and

dependent handicapped children shall be covered for \$1,500 insurance. Children under 6 months shall be provided with \$150 life insurance.

The City will provide an additional \$25,000 of Accidental Death and Dismemberment insurance for each member in the General Services Unit.

- 22.2 The City shall assume the 1.1% salary cost previously paid by the employee for long-term disability and life insurance.

### **ARTICLE XXIII – LONG TERM DISABILITY**

- 23.1 A long term disability program which, coordinated with other disability benefits, shall provide a benefit of 66-2/3% of the first two thousand two hundred and fifty dollars (\$2,250) of the employee's basic monthly earnings and 50% of the next one thousand dollars (\$1,000) of the employee's basic monthly earnings, in the event of disability. This program commences 60 days from the date of disability.

### **ARTICLE XXIV – MEDICAL INSURANCE**

- 24.1 The City agrees to provide medical insurance through the CalPERS Health Program. City shall pay 100% premium for employee only up to the highest HMO available in our geographical area. Effective January 19, 2004, employees shall contribute \$80.00 per month for Employee Plus One and \$104.00 per month for full family coverage.
- 24.2 Employees shall be eligible for medical insurance the first day of the month following the date the employee becomes a full-time regular employee of the City of Lodi.
- 24.3 If an employee has no dependents or chooses not to cover dependents with medical insurance the City will contribute \$25.00 per pay period to the employees deferred compensation account. If an employee elects not to be covered by medical insurance the City will provide an additional \$46.15 per pay period for a total of \$71.15 per pay period to the employees deferred compensation account.
- 24.4 If both the employee and the employee's spouse work for the City and are eligible for medical insurance, only one medical plan will be provided and Section 24.4 shall apply to the employee who is not the primary provider.

- 24.5 The City shall pay 100% of the premiums for health and dental benefits for the unmarried surviving spouse and any minor children of any members of this unit who is killed or dies during the performance of official duties. This benefit terminates if the surviving spouse remarries, the children reach the age of 18, or other medical insurance becomes available.
- 24.6 During the term of this MOU, the City and ALCE will meet and confer over whether to adopt a cafeteria plan, and if so, then over its terms. It is the City's intent to examine on a city-wide basis possible adoption of a cafeteria plan. Meeting over this issue may be conducted between the City and a coalition of City bargaining units, including ALCE. In absence of mutual agreement, the current terms of this MOU will remain in effect.

### **ARTICLE XXV – PERS**

- 25.1 The City agrees to provide the following PERS retirement program and to pay the employer's cost:
- (a) PERS "2% at 55" full formula retirement benefits plus the following additional options:
  - (b) The increased ordinary disability benefits which provide under PERS a 30% benefit after five years of service increasing to a maximum 50% benefit (Section 21298).
  - (c) Third level of 1959 Survivor Benefit which provides for survivors of a member who dies prior to retirement. This benefit is in addition to the Basic Death Benefit before retirement. (Section 21382.4).
  - (d) Post-retirement Survivor Allowance which provides a surviving spouse with an allowance upon the event of death after retirement. (Section 21263 and Section 21263.1 and 21263.3).
  - (e) Credit for unused sick leave which provides additional service credit for unused accumulated sick leave at time of retirement. (Section 20862.8).
- 25.2 On January 3, 1983, in lieu of any other salary adjustments which otherwise may have been agreed upon in this Unit, the City agreed to pay into each employee's PERS account 7% of the employees base salary.

**ARTICLE XXVI – SICK LEAVE CONVERSION**

26.1 For all unused sick leave, a represented employee with ten years of employment with the City shall receive medical insurance coverage upon retirement (but not upon resignation or termination) using one of the following options:

**Option #1 – Conversion**

After ten years of employment with the City, 50% of the represented employee's unused sick leave shall be converted to months of medical insurance as adjusted herein. For each year that an employee has been employed by the City in excess of ten years, the employee shall be entitled to add 2.5% to the 50% before converting the unused sick leave to months of insurance.

**EXAMPLE**

Robert Smith retires with 20 years of service and 1800 hours of unused sick leave.

$$1800 \div 8 \times 75\% \div 12 = 14.06 \text{ years of coverage}$$

The amount of the premium paid shall be the same as the premium paid by the City at the time of retirement. Any differences created by an increase in premiums must be paid for by the employee.

In the event the retiree dies the surviving dependent(s) may purchase medical insurance for the same period as if the employee had not died.

**Option #2 –Bank**

50% of the dollar value of sick leave will be placed into a bank to be used for medical insurance premiums for the employee and dependent(s). For each year that an employee has been employed in excess of 10 years, 2.5% will be added to the 50% before valuing the size of the bank. Each hour of sick leave is valued at \$20.00.

**EXAMPLE**

Robert Smith retires with 20 years of service and 1800 hours of unused sick leave (multiplication factor - \$20.00).

$$1800 \times .75 \times 20.00 = \$27,000.00$$

This amount will be reduced each month by the current premium for the employee and dependent(s) until the balance is gone.

In the event the retiree dies the remaining bank will be reduced by 50% and the surviving dependent(s) may use the bank until the balance is gone.



**Option #3 – Cash Out**

A retired employee may choose to receive a cash settlement for unused sick leave at the rate of \$.30 on the dollar. Under this provision, employee's sick leave balance at the time of retirement shall be converted to dollars at the employee's current rate of pay.

- 26.2 In the event an active employee dies before retirement and that employee is vested in the sick leave conversion program, the surviving spouse will have an interest in one-half the value of the Bank option as calculated in section 26.1.
- 26.3 Employees selecting option #1 or #2, who retiree on a service retirement shall have the option of purchasing at the employee's cost, additional medical insurance sufficient to reach age 65.
- 26.4 Out of area retirees may receive reimbursement for medical insurance premiums up to the City's liability as specified in Section 26.1 of this Article.
- 26.5 The City agrees to modify its contract with PERS to add credit for unused sick leave per Government Code Section 20862.8. This benefit is available to all employees regardless of the date hired; however, it is the only sick leave conversion benefit available to employees hired after July 1, 1995. It is agreed that eight hours equals one day for purposes of determining days creditable. If an eligible employee opts to utilize the provisions of any section of article 26 other than 26.5, the City will report to PERS they have zero hours of unused sick leave.

**ARTICLE XXVII – VISION INSURANCE**

- 27.1 The City agrees to provide a vision care plan equivalent to the VSP Plan B with a \$25.00 deductible for the employee and dependents. The entire premium shall be paid by the City.

**Chapter 4 – Safety****ARTICLE XXVIII – SAFETY/SAFETY BOOT PROVISIONS**

- 28.1 The City reaffirms its desire and aim to provide a safe place of employment for its employees and shall continue to take all reasonable steps to ensure this.

- 28.2 Effective December 8, 2003, the City agrees to provide a safety boot allowance of \$150.00 per fiscal year for the following classifications:

Associate Civil Engineer (2) (who do inspection/survey work)  
Associate Traffic Engineer  
Building Inspector I/II  
Engineering Technician I/II  
Engineering Tech. Sup.  
Jr./Asst. Engineer  
Public Works Inspector I/II  
Sr. Building Inspector  
Sr. Engineering Technician (1) (who do inspection/survey work)  
Sr. Storekeeper/Buyer  
Storekeeper

- 28.3 Employees who are required to wear safety boots (listed in 28.2) will be provided with a boot allowance in July of each year.
- 28.4 Employees hired during the fiscal year will receive an allowance on a prorated basis.
- 28.5 Safety boots are defined as leather work boots with a minimum of 4” ankle support. Employees have the option of purchasing these boots with or without steel toes.
- 28.6 Safety boots must be appropriate to the job classification and the specific work hazards for the work performed.
- 28.7 The City reserves the right to determine if a boot is appropriate to the job class and work conditions.
- 28.8 Employees performing duties/tasks without appropriate footwear may be sent home and additionally may be subject to disciplinary action.

## **Chapter 5 – Work Hours, Schedules, Meals**

### **ARTICLE XXIX – HOURS**

- 29.1 Except as provided in subsequent sections, the normal hours of work for all represented personnel shall be eight hours per day and 40 hours per week. The lunch period shall normally commence between the third and fifth work hour at the discretion of the Supervisor.

- (a) Employees of the Library may work a schedule which includes split days off. The hours of work shall vary according to a pre-posted work schedule.
  - (b) Parking Enforcement Assistants and Animal Control personnel shall work a schedule which may provide at least one person to work each Saturday.
  - (c) Alternate work schedules may be developed by mutual agreement between the employee and the appropriate supervisor.
- 29.2 Work schedules presently in effect shall remain in effect; however, the City reserves the right to change the hours of work as stated above, after consultation with the employees involved. Notice of permanent changes to this schedule must be given two (2) weeks in advance. Temporary changes in this schedule must have at least 24 hours notice. The ALCE shall be notified of all permanent schedule changes.

### **ARTICLE XXX – MEALS**

- 30.1 If the City requires an employee to perform work for one and one-half (1-1/2) hours immediately following quitting time, or if any employee is called in more than two (2) hours immediately before regular starting time, the City shall provide such employee with a meal. If an employee works beyond the regular quitting time, the City shall continue to provide meals at four (4) hour intervals until the employee is dismissed from work. The cost of such meals and the time taken to consume them shall be at the City's expense.
- 30.2 When the City requires employees to work on non-work days without notice, the City shall provide meals at intervals of four (4) hours. The first meal shall be four (4) hours after employees report to work, providing time is allowed for an employee to eat before reporting. If such time is not allowed, the first meal break shall be two (2) hours after reporting for work and at four (4) hour intervals thereafter.
- 30.3 When an employee is required to perform prearranged work on non-work days during regular work hours, he or she shall observe the lunch arrangement which prevails on his or her work days. If such work continues after regular work hours, the City shall provide the employee with meals in accordance with the provisions of Section 30.1 hereof.
- 30.4 If the City requires an employee to perform prearranged work starting two (2) hours or more before regular work hours on work days or non-work days, and

such employee continues to work into regular work hours, the employee shall provide for one meal on the job and the City shall provide other meals as required by the duration of the work period. The meals provided for in this Section shall be eaten at approximately the usual times and the usual practice relating to lunch periods on work days shall prevail. The usual times therefore shall be 7:00 a.m. – 12:00 noon-6:30 p.m.

## **Chapter 6 – Association / City Issues**

### **ARTICLE XXXI – ASSOCIATION LEAVE**

- 31.1 Whenever any employee is absent from work as a result of a formal request by the ALCE to send an employee to school to be involved in Association business, the City shall pay for all regular time lost and shall be reimbursed therefore by the ALCE at the rate of one hundred and fifty percent (150%) of the employee's regular wage rate.
- 31.2 The City agrees to provide storage space to the ALCE for association materials.

### **ARTICLE XXXII – CHANGES IN MEMORANDUM**

- 32.1 The parties agree to reopen this MOU and to renew meeting and conferring on the subjects set forth herein during the term of this MOU only in the event that any provision of this MOU is modified by statute, applicable regulation or by order of Court in such a way as to affect either the employees or the City. In such event, all remaining provisions of the MOU would continue in full force and effect unless and until they are also modified by statute, applicable regulation or order of Court, or agreement of the parties.

### **ARTICLE XXXIII – CITY RIGHTS**

- 33.1 It is understood and agreed between the parties that nothing contained in this Memorandum shall be construed to waive or reduce any rights of the City, which include, but are not limited to the exclusive rights to:

- Determine the mission of its constituent departments, commissions and boards.
- Set standards of service.
- Determine the procedures and standards of selection for employment.
- Direct its employees.
- Maintain the efficiency of governmental operations; to determine the methods, means and personnel by which government operations are to be conducted.
- Take all necessary actions to carry out its mission in emergencies.
- Exercise complete control and discretion in the technology of performing its work.

City rights also include the right to determine the procedures and standards of selection for promotion, to relieve employees from duty because of lack of work or other legitimate reasons, to take disciplinary action, and to determine the content of job classifications; provided, however, that the exercise by the City of the rights in this section does not preclude employees or their recognized employees organizations from filing grievances regarding the practical consequences that decisions on such matters may have on wages, hours or other terms and conditions of employment.

#### **ARTICLE XXXIV – EMPLOYEE REPRESENTATION**

- 34.1 This Memorandum of Understanding (hereinafter referred to as MOU) is entered into between representatives of the City of Lodi (hereinafter referred to as City) and representatives of the Lodi Chapter of the Association of Lodi City Employees (ALCE) for the General Services Unit.

The parties to this MOU acknowledge and agree that this MOU constitutes the result of meeting and conferring in good faith as contemplated by Sections 3500 et seq. of the Government Code of the State of California, and further acknowledge and agree that all matters upon which the parties reached agreement are set forth in this Memorandum. Except as specifically modified by this MOU, all existing benefits currently being furnished to employees and all existing terms and conditions of employment are to continue in effect unless and until the parties meet and confer regarding a change in such existing benefits, terms or conditions of employment.

The terms and conditions of this MOU are applicable to all regular and probationary employees represented by the ALCE. Those classifications are as follows:

Accounting Clerk I/II	Administrative Clerk
Administrative Clerk, Sr.	Administrative Secretary
Animal Services Officer	Animal Services Officer, Assistant
Aquatics Coordinator	Building Inspector I/II
Building Inspector I/II	Building Inspector, Sr.
Buyer	Civil Engineer, Associate
Civil Engineer, Junior/Assistant	Community Improvement Officer I/II
Customer Service Rep. I/II	Customer Service Supervisor
Customer Services Rep., Sr.	D.P. Programmer Analyst I/II
Engineering Technician I/II	Engineering Technician, Sr.
Field Services Representative	Field Services Supervisor
Finance Technician	Information Systems Specialist
Librarian I/II	Library Assistant
Library Assistant, Sr.	Meter Reader
Network Technician	Office Supervisor
Parking Enforcement Assistant	Parks Program Specialist
Parks Project Coordinator	Permit Technician
Planner, Jr./Asst./Assoc.	Police Records Clerk I/II
Police Records Clerk Supervisor	Police Administrative Clerk, Sr.
Public Works Inspector I/II	Purchasing Technician
Storekeeper	Storekeeper, Sr.

- 34.2 The City shall grant dues deduction to City employees who are members of the ALCE in accordance with the terms and conditions set forth in Section 4, Rule 2 of City of Lodi Resolution No. 3344 entitled, "Adopting Rules and Regulations to Implement Provisions of the Employee-Employer Relations Resolution."

The ALCE shall indemnify, defend, and hold the City of Lodi harmless against any claims made and against any suit instituted against the City of Lodi on account of check-off of said employee organization's dues. In addition, the ALCE shall refund to the City of Lodi any amounts paid to it in error upon presentation of supporting evidence.

- 34.3 For purposes of continued certification of ALCE as the recognized employee organization for this unit, employees who are members or hereafter become members shall maintain membership with ALCE for the life of this memorandum except that any unit employee may withdraw from membership not earlier than ninety days (90) nor less than sixty (60) days before the expiration of this memorandum. Such withdrawal must be in writing and delivered to the Finance Department. A copy of the request shall be forwarded to ALCE upon receipt in the Finance Department. Should the ALCE vote to implement an agency fee, the language of this article will be amended accordingly.
- 34.4 The City shall allow ALCE access to city meeting facilities at no cost to ALCE subject to the operating needs of the City. Requests for such use shall be made in advance to the appropriate department head or designee and shall include the date,

- location, time and general purpose of such meeting. The City may establish reasonable regulations governing the use of such facilities.
- 34.5 No City employee or applicant for employment shall be discriminated against any aspect of employment because of race, national origin, ancestry, color, religious or political opinions or affiliations, union affiliation, age, sex or disability.
- 34.6 The City and ALCE agree and understand that if any section of the MOU in any way conflicts with the terms and conditions of employment stated in other authorities, such as the personnel rules, administrative policy and procedure manual, city resolutions, or city ordinances, any ambiguity will be resolved in favor of the MOU language. If the MOU is silent on any issue, the applicable document is controlling.

#### **ARTICLE XXXV – GRIEVANCE PROCEDURE**

- 35.1 This grievance procedure shall be used to process and resolve disputes regarding the interpretation or application of any of the terms and conditions of this MOU, letters of understanding, formal interpretations and clarifications executed by the ALCE and the City.

The intent of this procedure is to resolve grievances informally at the lowest possible level and to provide an orderly procedure for reviewing and resolving grievances promptly.

A grievance is a good faith complaint of one or a group of employees or a dispute between the City and the ALCE involving the interpretation, application or enforcement of the express terms of the MOU and other terms and conditions of employment and matter of discipline which includes demotion, suspension or discharge.

As used in procedure, the term “PARTY” means an employee, the ALCE, the City or the authorized representative of any party. The employee is entitled to representation through all steps in the procedure.

- 35.2 Disputes involving the following subjects shall be determined by the Grievance Procedures established herein:
- (a) Interpretation or application of any of the terms of this MOU, including Exhibits thereto, Letters of Agreement, and/or formal interpretations and clarifications executed by the ALCE and the City.

- (b) Discharge, demotion, suspension, or discipline of an individual employee.
  - (c) Disputes as to whether a matter is proper subject for the Grievance Procedure.
  - (d) Disputes which may be of a “class action” nature filed on behalf of the ALCE or the City. Class action grievances shall be in writing from the ALCE to the City Manager or vice versa.
- 35.3 STEP ONE: Discussion between the employee and/or the employee’s representative, and the division head or designated supervisor directly involved, who shall answer within fifteen (15) work days. This step shall be taken within thirty (30) work days of the date of the action complained of, or the date the Grievant became aware of the incident which is the basis of the Grievance.
- 35.4 STEP TWO: If a grievance is not resolved in the initial step, a written statement signed by the Grievant shall be presented to the department head which shall include the action being grieved and the desired remedy. A discussion shall then take place between the employee, his or her representative, and the department head, who shall answer in writing within fifteen (15) work days. This Step shall be taken within fifteen (15) work days of the date the department head receives the written statement.
- 35.5 STEP THREE: If a Grievance is not resolved in STEP TWO, STEP THREE shall be the presentation of the Grievance, in writing, by the employee or his or her representative to the City Manager, who shall answer in writing within fifteen (15) work days of receipt of the Grievance. This Step shall be initiated within fifteen (15) work days of the date of the answer in STEP TWO.
- 35.6 STEP FOUR: If the Grievance is not resolved by the City Manager, arbitration shall be the final level of appeal for grievances and discipline. It is agreed by both parties that the decision of the arbitrator is binding and final on both parties and that if this procedure is utilized all other avenues of appeal are waived. If arbitration is chosen the City must be notified within fifteen (15) work days of the City Manager’s decision.

Within ten (10) working days after the request for arbitration is received by the City or at a date mutually agreed to by the parties, the parties shall meet to select an impartial arbitrator. If no agreement is reached at this meeting, the parties shall immediately and jointly request the State Conciliation and Mediation Service to submit to them a panel of five arbitrators from which the City and the ALCE shall alternately strike names until one name remains; this person shall be the arbitrator. If the State Conciliation and Mediation Service cannot provide a list of five arbitrators, the same request shall be made of the American Arbitration Association.



To insure that the arbitration process is as brief and economical as possible, the following guide lines shall be adhered to:

- a. An arbitrator may, upon mutual consent of the parties, issue a decision, opinion or award orally upon submission of the arbitration.
- b. Both parties and the arbitrator may tape record the hearing.
- c. There shall be no official transcript required; however, either party may utilize a court reporter at its own sole expense. The cost of a court reporter required by an arbitrator shall be shared equally by the parties.
- d. The parties may agree to prepare a joint letter submitting the issue in dispute. The letter shall present the matter on which arbitration is sought and shall outline the MOU provisions governing the arbitration. It may contain mutually agreed on stipulations of fact and it may be accompanied by any documents that the parties mutually agree shall be submitted to the arbitrator in advance of the hearing which may not necessarily be stipulations of fact. Further, if the parties mutually agree, the entire matter may be submitted to arbitration for review without a hearing. Absent agreement to prepare a joint letter, the parties may submit separate letters.
- e. The strict rules of evidence are not applicable and the hearing shall be informal.
- f. The parties have the right to present and cross examine witnesses, issue opening and closing statements, and file written closing briefs. Testimony shall be under oath or affirmation.
- g. The arbitrator may exclude testimony or evidence which he/she determines irrelevant or unduly repetitious.
- h. Attendance at a hearing shall be limited to those determined by the arbitrator to have a direct connection with the appeal. Witnesses normally would be present at the hearing only while testifying and should be permitted to testify only in the presence of the employee or his/her representative and the employer's representative.
- i. The arbitration hearing will be held on the employer's premises.
- j. The cost of arbitration shall be borne equally by the parties. However, the cost, if any, of cancellation or postponement shall be the financial responsibility of the party requesting such delay unless mutually agreed by the parties.

The decision, opinion, or award shall be based on the record developed by the parties before and during the hearing. The decision will be in writing and shall contain the crucial reasons supporting the decision and award.

The arbitrator has no power to add to, subtract from, or modify the terms of the MOU or the written ordinances, resolutions, rules, regulations and procedures of the City, nor shall he/she impose any limitations or obligations not specifically provided for under the terms of the MOU. The arbitrator shall be without power or authority to make any decision that requires the City or management to do an act prohibited by law.

The arbitrator has no power to add to a disciplinary action.

- 35.7 Failure by either party to meet any of the aforementioned time limits as set forth in Sections 35.3, 35.4, 35.5, or 35.6 shall result in forfeiture by the failing party. Except, however, that the aforementioned time limits may be extended by mutual agreement. Grievances settled by forfeiture shall not bind either party to an interpretation of this MOU, nor shall such settlements be cited by either party as evidence in the settlement of subsequent grievances.
- 35.8 An employee may represent himself or herself at any step of the Grievance Procedure.

#### **ARTICLE XXXVI – MUTUAL CONSENT CONTINGENCY**

- 36.1 This MOU may be amended any time during its life upon the mutual consent of the City and the ALCE. Such amendment must be in writing and attached to all executed copies of this MOU.

#### **ARTICLE XXXVII – NO STRIKES**

- 37.1 The represented employees agree that they shall not strike, withhold services, engage in “slow downs” or “sick-ins” or participate in any other concerted activity which adversely affects job performance or City services during the term of this MOU.

**ARTICLE XXXVIII – PROBATIONARY PERIOD**

- 38.1 All appointments to positions in the classified service shall be subject to a probationary period of twelve (12) continuous months of service. The probationary period shall be regarded as an integral part of the examination process and shall be used to closely observe the employee's work for securing the most effective adjustment of an employee to his or her new duties, assignments and responsibilities in his or her new position and for rejecting any probationary employee whose performance does not meet required work standards. If the service of the employee is deemed to be unsatisfactory, the employee shall be notified that he or she has not satisfactorily completed probation.
- 38.2 During the probationary period, all new hires shall have the rights and privileges afforded to other employees, except:
- 1) Vacation Leave – See Article XIX for vacation schedule.
  - 2) The use of the Grievance Procedure to grieve termination.
  - 3) The City and the employee may mutually agree to extend the probationary period for not more than 6 months. The ALCE shall be notified of all extensions.
  - 4) Probation shall be extended for the same time as any leaves of absence.
- 38.3 In the event an employee is promoted and is rejected by the appropriate department head, he or she shall be reinstated to the position from which he or she was promoted unless he or she is discharged. The seniority and status of a rejected candidate shall continue as before.

**ARTICLE XXXIX – PROMOTION**

- 39.1 The City and ALCE mutually agree it is good personnel practice to make every effort to promote from within consistent with the best interests of the City.

**ARTICLE XL - SENIORITY**

- 40.1 Seniority is defined as the total length of continuous service with the City. Continuity of service shall not be broken and seniority shall accrue when an employee is:
- (a) Inducted, enlists, or is called to active duty in the Armed Forces of the United States or service in the Merchant Marine under any Act of

Congress which provides that the employee is entitled to re-employment rights.

- (b) On duty with the National Guard.
- (c) Is absent due to industrial disability.
- (d) On leave of absence.
- (e) Absent due to layoff for a period of less than twelve (12) consecutive months.

#### **ARTICLE XLI – SHOP STEWARDS**

- 41.1 The ALCE agrees to notify the City in writing as to the appointment of all shop stewards. Shop stewards shall be required to work full time in their respective classifications and shall not interrupt the work of other employees. A steward may, with reasonable notice and approval of his or her supervisor, leave the job during working hours for reasonable periods to investigate pending grievances and to take part in the Grievance Procedure. However, no steward shall leave the job while his presence is necessary in the judgment of his or her supervisor for the safe conduct and efficiency of the operations in which he or she is engaged.

#### **ARTICLE XLII – STATUS**

- 42.1 Employees shall be designated as regular, probationary, or temporary, depending upon the purpose for which they are hired and their length of continuous service with the City.
- (a) A regular employee is defined as an employee who has twelve (12) months or more service with the City in full-time employment, except as provided for in the Rules for Personnel Administration, Article XI (Probationary Period).
  - (b) A probationary employee is defined as an employee hired for a full-time position that has been regularly established as an authorized position and is of indeterminate duration. A probationary employee shall receive not less than the minimum rate for the job and shall be eligible for sick leave pay, vacation pay, holiday pay, retirement plan participation, insurance coverage and items of a similar nature, as he or she becomes eligible, but shall not be given preferential consideration for promotion or transfer or be eligible for a leave of absence. Upon completion of twelve month of

continuous full-time service with the City, a probationary employee shall be given the status of a regular employee.

- (c) A temporary employee is an employee hired on a full-time basis to fill a full-time position (at least 32 hours per week). Temporary employees shall attain regular status after being employed for twelve (12) continuous months.
- (d) A contract employee is an employee hired on a part-time or full-time basis to perform a specific task or function for a limited duration. Such employees do not have rights to further employment with the City.

#### **ARTICLE XLIII – TERM**

- 43.1 The terms and conditions of this MOU shall continue in effect during the term of this MOU. The parties agree as follows:

TERM: Covering the period from July 1, 2003 through June 30, 2005.

**ATTACHMENT A**

<b>General Services Positions</b>					
<b>Salary Schedule effective 12/8/2003</b>					
<b>Classification</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>
Accounting Clerk I	2,325.43	2,441.70	2,563.79	2,691.97	2,826.57
Accounting Clerk II	2,557.96	2,685.86	2,820.16	2,961.16	3,109.22
Administrative Clerk	2,316.39	2,432.21	2,553.82	2,681.51	2,815.59
Administrative Clerk, Senior	2,548.03	2,675.43	2,809.20	2,949.66	3,097.15
Administrative Secretary	3,081.20	3,235.26	3,397.02	3,566.87	3,745.22
Animal Services Supervisor	3,006.11	3,156.42	3,314.24	3,479.95	3,653.95
Animal Services Officer, Assistant	2,614.08	2,744.78	2,882.02	3,026.13	3,177.43
Aquatics Coordinator	3,051.27	3,203.84	3,364.03	3,532.23	3,708.84
Building Inspector I	3,549.45	3,726.92	3,913.26	4,108.93	4,314.37
Building Inspector II	3,904.39	4,099.61	4,304.59	4,519.82	4,745.81
Building Inspector, Senior	4,294.83	4,509.57	4,735.05	4,971.80	5,220.39
Buyer	3,555.60	3,733.38	3,920.05	4,116.05	4,321.85
Civil Engineer, Junior	4,335.64	4,552.42	4,780.04	5,019.05	5,270.00
Civil Engineer, Assistant	4,769.20	5,007.66	5,258.04	5,520.95	5,796.99
Civil Engineer, Associate	5,246.12	5,508.42	5,783.85	6,073.04	6,376.69
Community Improvement Officer I	3,380.43	3,549.45	3,726.92	3,913.26	4,108.93
Community Improvement Officer II	3,718.47	3,904.39	4,099.61	4,304.59	4,519.82
Customer Service Representative I	2,325.43	2,441.70	2,563.79	2,691.97	2,826.57
Customer Service Representative II	2,557.96	2,685.86	2,820.16	2,961.16	3,109.22
Customer Service Rep., Senior	2,814.64	2,955.37	3,103.14	3,258.30	3,421.21
Customer Service Supervisor	3,378.30	3,547.22	3,724.58	3,910.81	4,106.35
D.P. Programmer Analyst I	3,731.73	3,918.31	4,114.23	4,319.94	4,535.94
D.P. Programmer Analyst II	4,108.56	4,313.99	4,529.69	4,756.18	4,993.98
Engineering Technician I	3,583.18	3,762.34	3,950.45	4,147.98	4,355.37
Engineering Technician II	3,941.49	4,138.57	4,345.50	4,562.77	4,790.91
Engineering Technician, Senior	4,335.64	4,552.42	4,780.04	5,019.05	5,270.00
Field Service Representative	3,162.32	3,320.44	3,486.46	3,660.78	3,843.82
Field Service Supervisor	3,640.22	3,822.23	4,013.34	4,214.00	4,424.70
Finance Technician	3,095.14	3,249.90	3,412.39	3,583.01	3,762.16
Information Systems Specialist	3,254.87	3,417.62	3,588.50	3,767.92	3,956.32
Librarian I	3,706.74	3,892.07	4,086.68	4,291.01	4,505.56
Librarian II	4,077.41	4,281.28	4,495.35	4,720.12	4,956.12
Library Assistant	2,432.22	2,553.83	2,681.52	2,815.59	2,956.37
Library Assistant, Senior	2,675.43	2,809.20	2,949.66	3,097.15	3,252.00
Meter Reader	2,877.64	3,021.52	3,172.59	3,331.22	3,497.79
Network Technician	3,979.92	4,178.91	4,387.86	4,607.25	4,837.61

**ATTACHMENT A****General Services Positions**

**Salary Schedule effective  
12/8/2003**

<b>Classification</b>	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>
Office Supervisor	3,081.20	3,235.26	3,397.02	3,566.87	3,745.22
Parking Enforcement Assistant	2,634.22	2,765.93	2,904.22	3,049.43	3,201.91
Parks Program Specialist	3,662.19	3,845.30	4,037.56	4,239.44	4,451.41
Parks Project Coordinator	4,335.64	4,552.42	4,780.04	5,019.05	5,270.00
Planner, Junior	3,538.25	3,715.17	3,900.93	4,095.97	4,300.77
Planner, Assistant	3,892.08	4,086.68	4,291.01	4,505.57	4,730.84
Planner, Associate	4,281.29	4,495.35	4,720.12	4,956.13	5,203.93
Police Records Clerk I	2,299.17	2,414.13	2,534.84	2,661.58	2,794.66
Police Records Clerk II	2,529.09	2,655.55	2,788.33	2,927.74	3,074.13
Police Administrative Clerk, Senior	2,675.43	2,809.20	2,949.66	3,097.15	3,252.00
Police Records Clerk Supervisor	2,908.01	3,053.42	3,206.09	3,366.39	3,534.71
Public Works Inspector I	3,549.45	3,726.92	3,913.26	4,108.93	4,314.37
Public Works Inspector II	3,904.39	4,099.61	4,304.59	4,519.82	4,745.81
Purchasing Technician	2,962.27	3,110.39	3,265.91	3,429.20	3,600.66
Storekeeper	2,810.75	2,951.29	3,098.85	3,253.80	3,416.49
Storekeeper, Senior	3,091.83	3,246.43	3,408.75	3,579.18	3,758.14

**ATTACHMENT B****General Services Positions**

Dollars to be added to salary schedule effective  
the pay period in which July 1, 2004 falls

Classification	Step A	Step B	Step C	Step D	Step E
D.P. Programmer Analyst I	311.26	326.83	343.17	360.33	378.34
D.P. Programmer Analyst II	337.51	354.38	372.10	390.71	410.24
Information Systems Specialist	260.51	273.54	287.21	301.57	316.65
Network Technician	235.87	247.67	260.05	273.05	286.71





## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving the Renewal of the Renegotiated Fire Emergency Services Dispatch Agreement with the Stockton Fire Department

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Michael E. Pretz, Fire Chief

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**RECOMMENDED ACTION:** That Council adopts a resolution approving the renewal of the renegotiated Fire Emergency Services Dispatch Agreement with the Stockton Fire Department.

**BACKGROUND INFORMATION:** In May 2003, the City of Stockton gave notice that they would be terminating the current Emergency Services Dispatch Agreement that has been in use since April 2000. This termination was due in part to unavoidable fiscal restraints and the Stockton City Council's desire to recover reasonable expenses for providing dispatch services. The new agreement is an increase in overall cost to the City of Lodi. The base rate for dispatching calls will increase from \$10.37 per call to \$26.06 per call. However, the increase will be phased in over three years. Year 1(2004-05) cost is 75% of the base rate, Year 2 (2005-06) is 90% of the base rate and Year 3 (2006-07) is 100% of the base rate.

The methodology for calculating the base rate will be "service cost" divided by "call volume". In 2003, the Lodi Fire Department answered 4,316 calls for assistance. The base rate will be adjusted annually and fire departments will have the ability to review and question costs. The City of Lodi appropriated \$67,500 for dispatching services, including radio maintenance fees in 2003-04. The Year 1 (2004-05) increase will be approximately \$41,000 and was not included in the 2004-05 budget estimates; however, staff will insert this as an adjustment to the budget in 2004-05.

Before recommending adoption of this resolution, staff researched the cost of moving back to Lodi Police Department dispatch center, as well as other dispatching agencies. Initial cost estimates to provide the same type of dispatch services are near \$500,000 per year. These costs include additional dispatchers, training, equipment, as well as other associated costs.

**FUNDING:** General Fund

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Michael E. Pretz, Fire Chief

cc: D. Stephen Schwabauer, Interim City Attorney

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**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

## EMERGENCY DISPATCH SERVICES AGREEMENT

THIS AGREEMENT is made and entered into on \_\_\_\_\_, by and between the CITY OF STOCKTON, a municipal corporation, hereinafter designated "CITY," and the CITY OF LODI, hereinafter designated "LODI."

### WITNESSETH:

WHEREAS, CITY desires to enter into an agreement with LODI to provide emergency dispatch services to LODI through the Stockton Fire Department (SFD) Regional Fire and Emergency Medical Dispatch Center located at 110 West Sonora Street, Stockton, California.

NOW THEREFORE, in consideration of the promises and of the mutual covenants herein contained, the parties hereto expressly agree as follows:

#### 1. DEFINITIONS:

a. **FIRE DEPARTMENT** is defined by this AGREEMENT as a private, non-profit, or public organization that provides fire protection and emergency services within a specific geographical area.

b. **BASE RATE** is defined by this AGREEMENT as the dollar value determined by dividing the projected expenses to operate the SFD Regional Fire and Emergency Medical Dispatch Center during the current fiscal year, as determined by the CITY, by the total number of dispatches for the previous calendar year.

c. **BASE RATE ADJUSTMENT** is defined by this AGREEMENT as an annual adjustment in the Base Rate determined by CITY for each subsequent fiscal year to ensure that LODI is accurately charged by CITY for all costs and services provided to LODI.

d. **DISPATCH** is defined by this AGREEMENT as a call for service which generates an incident number and the assignment of emergency response vehicle(s) and crew(s) to the incident. For a multi-jurisdictional or multi-agency response to an incident, each jurisdictional entity or agency assigned to an incident incurs one dispatch.

e. **EMERGENCY DISPATCH SERVICES** are defined by this AGREEMENT as the following duties:

1) Receive emergency calls for service from the public on 9-1-1, emergency and non-emergency telephone lines.

2) Utilize a method approved by CITY and any regulating authorities for call interrogation and prioritization.

3) Provide pre-arrival instructions, as appropriate.

4) Dispatch such calls for the appropriate jurisdiction or agency by voice and/or data methods utilizing standard operating policies and procedures.

5) Track the availability of emergency resources.

6) Electronically record telephone calls and radio transmissions involving incidents occurring in LODI jurisdiction.

7) Provide generic Computer-Aided Dispatch reports and statistics, as requested. Provide read-only dispatch data access to facilitate the function of LODI incident report management computer programs. LODI is responsible for any data-linking computer hardware and/or programming costs.

8) Strive to meet or exceed any local, state, or national standards concerning call processing times or quality improvement.

f. **RESPONSE LEVEL ASSIGNMENTS** are defined by this AGREEMENT as the number and type of emergency response vehicle(s) and crew(s) assigned to a specific incident.

## 2. SERVICE AND RESPONSIBILITIES:

a. CITY will provide emergency dispatch services to LODI. Such services shall be afforded at a level equivalent to that provided for similar incidents within the incorporated area of CITY and consistent with any required regulating authority. This service is for emergency incidents only and does not include dispatch services for non-emergency or interfacility patient transfers calls. CITY shall be responsible for the operation and supervision of, and will provide plant facilities for, personnel and common equipment necessary for the SFD Regional Fire and Medical Dispatch Center on a 24-hour-per-day basis. Excluded from common communications equipment are certain items which benefit only one participant, agency, or group of agencies, including listed business and emergency telephone lines, radios and other related communications equipment.

b. It shall be the responsibility of CITY to receive calls for assistance and to transmit them to LODI utilizing standard operating procedures.

c. Upon notification, the provision of all necessary dispatch information and acknowledgment by CITY, LODI shall assume sole responsibility for the disposition of its resources and shall be responsible for any necessary reports.

d. LODI shall be responsible for the disposition of its own business calls unless other contractual arrangements are made. CITY will, however, make a reasonable attempt to relay to LODI any business calls received by the SFD Regional Fire and Emergency Medical Dispatch Center.

e. LODI shall provide CITY and maintain response level assignments necessary for emergency dispatch service. The provision and accuracy of this information and all subsequent information shall be the sole responsibility of LODI.

### 3. PAYMENT FOR SERVICES:

a. Commencing the first day of the month in which this AGREEMENT is executed, and continuing each month thereafter, CITY will: (1) count the total number of dispatches for LODI during the prior month; (2) multiply that number by the appropriate Base Rate, to arrive at the monthly dispatch fee to be paid by LODI to CITY. CITY will issue an invoice for the monthly dispatch fee amount, as determined hereinabove. Payment shall be made by LODI to CITY by the due date stated on the invoice and to the address specified on the invoice. The invoice date will correspond to the date the invoice is mailed from the Administrative Services Department of CITY and the due date will be forty-five (45) days after the invoice date.

b. LODI will be considered delinquent if payment of any invoice has not been received by CITY on or before the due date stated on the invoice. A late payment penalty of five percent (5%) of the unpaid, delinquent amount will be added to the LODI's account plus one percent (1%) per month for each month the payment is delinquent. LODI agrees to compensate CITY for all fees and costs incurred during any delinquency period in addition to all invoiced dispatch charges.

c. A BASE RATE ADJUSTMENT will be determined by CITY for each subsequent fiscal year, after this AGREEMENT has been executed by the respective parties, in order for CITY to recover the full cost of dispatch services incurred by LODI. The intent of this annual rate adjustment is to establish a new Base Rate for each subsequent fiscal year based on the SFD Regional Fire and EMS Dispatch Center's adopted budget for that fiscal year divided by the total number of dispatches during the prior calendar year. The new Base Rate for each fiscal year shall be effective July 1. If CITY's calculation of the Base Rate adjustment is not available in time for the July billing, the prior fiscal year Base Rate shall be used in monthly billing until such time as the new Base Rate is available.

d. The Base Rate commencing the first day of the month in which this AGREEMENT is executed, and for the remainder of Fiscal Year 2003-2004 shall be 75% of the Base Rate, as defined in Section 1(b) above; the rate to be charged for Fiscal Year 2004-05 shall be 75% of the Adjusted Base Rate calculated for Fiscal Year 2004-05 (effective July 1, 2004) as described in Section 3(c) above; and the rate to be charged for Fiscal Year 2005-06 (effective July 1, 2005), shall be 90% of the Adjusted Base Rate calculated for Fiscal Year 2005-2006. The rate to be charged for Fiscal Year 2006-07 (effective July 1, 2006), and annually thereafter shall be 100% of the Adjusted Base Rate.

e. ADDITIONAL CHARGES will be applied to LODI if the provision of dispatch services by CITY require the use of services and equipment that are not included in the Base Rate. Additional charges will apply to LODI on a proportional basis with any other participant, agency, or group of agencies who require the use of these services and equipment. These services and equipment include, but are not limited to the provision of dispatch services for non-emergency/inter-facility transportation, the use of automatic vehicle location equipment or other services not specifically defined by this AGREEMENT. The budgeted amount for these services and equipment divided by total number of incidents incurred by the common participant, agency, or group of agencies will determine the additional charge applied to each user entity. Notwithstanding the language herein regarding additional charges that will be applied to LODI, the CITY shall meet and confer with LODI prior to applying any additional charges to the LODI.

#### 4. DISPUTES OF PAYMENT FOR SERVICE:

a. In the event that LODI disputes the total number of dispatches to be multiplied by the Base Rate to determine payment for service by CITY, LODI must provide a written notice to the Manager of the SFD Regional Fire and Emergency Medical Dispatch Center delineating the specific evidence as to why a dispatch or dispatches should be excluded from the total number of dispatches charged to LODI in a given month. Concurrently, a copy of this notice must also be sent to the CITY's Administrative Services Department at the address on the invoice. CITY may modify the total number of dispatches charged to LODI based on the reasonable evidence provided to the Manager of the SFD Regional Fire and Emergency Medical Dispatch Center by LODI representatives.

b. Any written notice disputing the total number of dispatches to be charged to LODI by CITY must be presented to the Manager of the SFD Regional Fire and Emergency Medical Dispatch Center no later than the due date of the invoice for the disputed charges. If no written notice is received by the Manager of the Regional Fire and Emergency Medical Dispatch Center by the due date on the invoice, CITY will conclude that LODI concurs with the total number of dispatches to be charged to LODI in a given month.

c. Payment of all undisputed charges must be made by the due date stated on the invoice or payment will be considered delinquent. Further, once a payment is considered delinquent, late payment penalties and termination provisions as set forth in Sections 3(b) above and 5(c) below will apply.

d. The Manager of the SFD Regional Fire and Emergency Medical Dispatch Center will cause a review to be performed of the specific evidence provided by LODI on the disputed dispatches charged. The disputed dispatch charges may be upheld, reduced, or modified based on the findings of the review.

e. The decision of the Stockton Fire Chief regarding any disputed dispatch charges shall be final and binding.

#### 5. TERM OF AGREEMENT AND TERMINATION PROCEDURES:

a. This AGREEMENT shall remain in effect until terminated. This AGREEMENT will automatically renew every calendar year unless either party requests this AGREEMENT be terminated. This AGREEMENT may be terminated by either party without cause upon the giving of one (1) year notice.

b. This AGREEMENT may be terminated without complying with the one (1) year notice requirement for the sole cause of nonperformance by the other party.

c. CITY may terminate this AGREEMENT after providing written notice to LODI that payment of any invoice for emergency dispatch services has become delinquent, as defined in Section 3(b), and remains delinquent for a period of thirty (30) calendar days after the due date stated on the invoice.

#### 6. CITY SERVICE TO OTHER AGENCIES:

It is understood that CITY is offering dispatch service, and that this AGREEMENT in no way is intended to prevent CITY from offering its service to other agencies or to limit the terms of CITY'S service to other agencies.

#### 7. INDEPENDENT CONTRACTOR:

CITY shall serve as an independent contractor in performing the services provided for under this AGREEMENT and shall be responsible for Workers' Compensation and other obligations consistent with that status. In no event shall CITY be responsible for any Workers' Compensation or other obligations of LODI.

#### 8. INDEMNIFICATION:

a. CITY shall not be liable to LODI or any person or persons acting for or under it for any deaths or injuries received or claimed, unless any such liability arises by virtue of negligence or intentional acts by CITY, its officers, agents, or employees.

LODI shall indemnify and hold CITY, its officers, agents and employees harmless from and defend against any and all claims arising from the sole negligence of LODI or LODI's officers, or employees, in the performance of this AGREEMENT.

b. CITY shall indemnify and hold LODI, its officers, agents and employees harmless from and defend against any and all claims arising from the sole negligence of CITY or CITY's officers, or employees, in the performance of this AGREEMENT.

9. INSURANCE:

LODI shall secure and maintain at its own expense during the life of this AGREEMENT Workers' Compensation and other insurance coverages in the forms and amounts set forth in the attached Exhibit A, which is incorporated herein by reference.

10. LICENSING:

LODI covenants that it has all licenses, permits, qualifications, and approvals of whatsoever nature as are legally required for LODI to practice its profession; and that LODI shall at its sole cost and expense, keep in effect at all times during the term of this AGREEMENT any and all such licenses, permits and approvals.

11. NOTICES:

Any notice, tender, delivery, requests for payment or notice to be given hereunder by either party to the other may be effected by personal delivery, in writing, or by mail, and shall be deemed communicated as of the date of actual receipt. Mailed notices shall be addressed as set forth below, but each party may change its address by delivery of written notice in accordance with this paragraph:

TO CITY: City of Stockton  
Fire Department  
425 N. El Dorado Street  
Stockton, CA 95202-1997

TO: Fire Chief Michael Pretz  
City of Lodi, 221 W. Pine Street  
P.O. Box 3006  
LODI, CA 95241-1910

12. ATTORNEY'S FEES:

In the event any dispute between the parties arises under or regarding this AGREEMENT, the prevailing party in any litigation of the dispute shall be entitled to recover reasonable attorney's fees and costs from the party who does not prevail as determined by a court of competent jurisdiction.

13. APPLICABLE LAW:

This AGREEMENT shall be governed by the laws of the State California.

14. SEVERABILITY:

The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision of this AGREEMENT.

15. CAPTIONS:

The captions of the sections and subsections of this AGREEMENT are for convenience only and shall not be deemed to be relevant in resolving any questions of interpretation or intent.

16. ENTIRE AGREEMENT:

This AGREEMENT represents the entire and integrated AGREEMENT between CITY and LODI and supersedes all prior negotiations, representations, or AGREEMENTS, either written or oral. This AGREEMENT may be amended only by written instrument signed by CITY and LODI.

17. AUTHORITY:

The undersigned hereby represent and warrant that they are authorized by the parties to execute this AGREEMENT.

18. EFFECTIVE DATE OF SERVICE:

The Dispatching Service that is the subject of this contract shall become effective on \_\_\_\_\_, 2004.



IN WITNESS WHEREOF, this AGREEMENT has been executed by the respective parties hereto through their respective authorized officers the day and year first above written.

ATTEST:

KATHERINE GONG MEISSNER  
CITY CLERK

By \_\_\_\_\_

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By \_\_\_\_\_  
Michael T. Rishwain  
Assistant City Attorney

CITY OF STOCKTON, a municipal  
corporation ("CITY")

By \_\_\_\_\_  
Mark Lewis, City Manager

CITY OF LODI  
("LODI")

By \_\_\_\_\_  
H. Dixon Flynn, Lodi City Manager

APPROVED AS TO FORM  
LODI CITY ATTORNEY

By \_\_\_\_\_  
Steven Schwabauer

## EXHIBIT A

### **INSURANCE REQUIREMENTS**

LODI shall procure and maintain for the duration of the contract insurance against all claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the LODI, its agents, representatives or employees.

#### Minimum Limits of Insurance

LODI shall maintain insurance limits not less than:

1. General liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage.

If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: As required by State law.

#### Deductibles and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by CITY.

#### Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, and volunteers are to be covered as additional insured on general liability and automobile liability policies as respects: liability out of activities performed by or on behalf of LODI; premises owned, occupied or used by LODI; and automobiles owned, leased, hired or borrowed by LODI. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees or volunteers.

2. For any claims related to this project, LODI's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials, employees or volunteers shall be excess of LODI's insurance and shall not contribute with it.
3. Any failure to comply with the reporting or other provisions of the policies shall not affect coverage provided to CITY, its officers, officials, employees or volunteers.
4. LODI's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to CITY.

#### Subcontractors

Before permitting any subcontractors to perform work under this Contract, LODI shall require subcontractors to furnish satisfactory proof that insurance has been issued and is maintained similar to that provided by LODI as may be applied to each subcontractor's work.

#### Acceptability of Insurers

Insurance is to be placed with insurers that are admitted insurance carriers in the State of California, or must otherwise be approved by CITY.

#### Verification of Coverage

LODI shall furnish CITY with original endorsements of effective coverage for policies on which CITY is included as an additional insured as required by this Exhibit, and shall furnish original certificates of insurance for all other required policies. The endorsements are to be signed by the person authorized by the insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by CITY before work commences.

Upon request, LODI shall furnish CITY a certified copy of any or all policies of insurance covering the work required under this Contract.

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
RENEWAL OF THE RENEGOTIATED FIRE EMERGENCY  
SERVICES DISPATCH AGREEMENT WITH THE STOCKTON  
FIRE DEPARTMENT, AND FURTHER AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF  
THE CITY OF LODI

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby  
approve the renewal of the renegotiated Fire Emergency Services Dispatch Agreement  
with the Stockton Fire Department; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and  
directed to execute the Agreement on behalf of the City of Lodi.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the  
City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following  
vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt resolution authorizing the City Manager to execute a one-year on-site Catering agreement at Hutchins Street Square with Wine Valley Catering, Inc.

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Tea Silvestre, Community Center Director

**RECOMMENDED ACTION:** Adopt resolution authorizing the City Manager to execute a one-year on-site Catering agreement at Hutchins Street Square with Wine Valley Catering, Inc.

**BACKGROUND INFORMATION:** This agreement consists of renting a small office space (no more than 100 sq ft) at Hutchins Street Square to Wine Valley Catering, Inc. (WVC), of Napa, California, for \$500 per month for one year for facilitation of on-site catering services. This amount includes utilities, but excludes the cost of a telephone or fax line. The agreement also requires WVC to pay the City a 2% commission on each non-city event they cater at the Square for use of the kitchen. Renters will not be required to use WVC for events held at the Square.

The Request for Proposals was approved by Council on January 7, 2004. The Request for Proposals was distributed to local providers (see attached) and a notice of the availability of the RFP was published in the Lodi News Sentinel on Wednesday, January 14, 2004. The Community Center Director conducted an on-site pre-proposal tour on Tuesday, January 13, 2004. Five businesses attended the tour. The City received only one proposal for this project. Along with the evaluation of the proposal, interviews were conducted with principals of WVC (the sole applicant). The City's interview team consisted of Tea Silvestre, Community Center Director and the Hutchins Street Square Foundation Board of Directors.

WVC has a long and solid reputation for providing quality catering services for events of all sizes and budgets. WVC has provided catering services to several private and business events in and around Lodi, including many weddings and parties; the Taste of Lodi event; the Legends of Lodi Wine Auction; Lodi Memorial Hospital; Woodbridge Winery; and the Hutchins Street Square Foundation. We are confident that the level of their service will compliment the services provided by the Square and its facilities.

WVC estimates their presence at the Square will provide a small boost to the local economy by generating approximately 15 part-time jobs (wait staff) over the next year. They have also developed a strong marketing plan which intends to bring new business to the Square by fostering relationships with the meeting planners and event planners of local and regional corporations and associations.

**FUNDING:** None. \_\_\_\_\_

\_\_\_\_\_  
Tea Silvestre, Community Center Director

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

# **CITY OF LODI CATERING AGREEMENT**

THIS CATERING AGREEMENT ("Agreement") is made as of April 9, 2004 between **THE CITY OF LODI**, a municipal corporation ("CITY"), and, **WINE VALLEY CATERING, INC.** ("OPERATOR").

WHEREAS, CITY desires to engage OPERATOR to manage and operate the food and beverage services at Hutchins Street Square Performing Arts & Conference Center, located in Lodi, California ("Center"); and

WHEREAS, OPERATOR wishes to provide such services, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and of the promises exchanged herein by the parties, it is hereby agreed:

## **Article I. TERM**

The term of this Agreement shall be for a period of one (1) year beginning April 9, 2004. If the OPERATOR shall for any reason hold over beyond such term with the consent, expressed or implied, of CITY, such holding over shall be from month-to-month only subject to the terms and conditions of this Agreement, but shall not be a renewal thereof, and the consideration to be paid shall be at the rates prevailing under the terms of this Agreement.

## **Article II. DEFINITIONS**

Section 2.01 "Adjusted Gross Receipts" means all amounts received by OPERATOR on all sales of Food Products prepared at the Center regardless of where sold; less (i) the amount of any federal, state or local sales or other such tax; and (ii) the amount that is received as tips or gratuities/service charges.

Section 2.02 "Backstage Catering" shall mean food and beverage services for an entertainer, cast members and road crew members associated with a designated entertainment event at a public concert or entertainment event. Backstage Catering is not part of this Agreement, but the OPERATOR shall have the right to submit a bid to the CITY for such services.

Section 2.03 "Buffet Services" are defined at the Center as the preparation and serving from a buffet line of food at a per plate, per person charge. This can be construed to be in a group price or individual person price.

Section 2.04 "Catering and Banquet Services" are defined in the Center as the preparation and serving of food at a per plate, per person charge. This can be construed to be in a group price or individual person price.

Section 2.05 "Center" shall mean the Hutchins Street Square Performing Arts and Conference Center and their grounds, any additions thereto, and any adjacent land and/or structures temporarily used in connection with Center activities.

Section 2.06 "Fiscal Year" shall mean July 1 to June 30.

Section 2.07 "Food and Beverage Service Manager" shall mean OPERATOR's chief designated representative.

Section 2.08 “Food Products” means all food and beverages and shall include without limitation, alcoholic beverages, candy and confections.

Section 2.09 “Food Services” means all food and beverage services to be provided hereunder, including without limitation, dining, catering, hospitality.

Section 2.10 “Director” shall mean Center’s Director, or a designated representative.

Section 2.11 “Licensee” shall mean any person or entity that may from time to time enter into any agreement with Center for the use of the Center for a particular purpose.

Section 2.12 “Monthly Accounting Period” means each monthly calendar period (or portion thereof) in accordance with City’s accounting calendar.

Section 2.13 “Premises” shall mean all areas, improvements, fixtures and trade fixtures upon the Center’s premises which are or may in the future be used in connection with the operation of the Food Services, including adequate storage and office space.

### **Article III. RIGHTS AND DUTIES OF OPERATOR.**

Section 3.01 The Food Services rights granted OPERATOR shall not prevent or prohibit Center or its Licensees from engaging in or contracting outside catering services for any event. In addition, OPERATOR agrees that outside catering services may be utilized at special events sponsored by the CITY where the use of outside catering services is desirable. Use of the Center by an outside catering service may include the sale of alcoholic beverages, the use of Food Service equipment or inventory owned by the Center, or the use of the Premises as defined herein.

Section 3.02 Nature of Service to be Performed. OPERATOR shall provide the Center with those Food Services normally associated with convention center operations. These services are primarily food and beverage service, and catering related functions. Additionally, specialized services consisting of, but not limited to the following, may be required:

- (a) Room Service – Catering service will be available to meeting rooms used by Licensees. Food Services requested may range from snacks to elaborate catered meals. Hosted service is involved as opposed to individual orders, requiring constant attention by OPERATOR for re-supply, freshness purposes, and immediate removal of food stuffs, and must often be provided at specific meeting times and/or subject to other constraints imposed by the Licensee of the Center.
- (b) Exhibitor Services – Food Services shall be available to exhibitors at conventions or trade shows with Food Products served directly at their booth/display location. Price and service agreements between OPERATOR and the exhibitor shall be approved by the Director.
- (c) Portable “Thematic” Food Service – For certain events held at the Center, Licensees may require specialized or ethnic foods and beverages with related thematic presentations and displays.
- (d) Provision of Personnel – There will be occasions when OPERATOR is called upon to provide host/hostesses, bartenders and/or waiters/waitresses for specialized functions. These functions shall not detract from the normal services and staffing for which OPERATOR is responsible. Client will be charged accordingly.

### **Article IV. PREMISES**

The Premises at the Center shall be used by OPERATOR solely in the performance of Food Services hereunder and will include the kitchen, existing storage located in kitchen area, and access to

the loading dock as needed. OPERATOR's office space (approximately 100 square feet) shall be provided by CITY at the rate of \$500 per month. In the event that OPERATOR is required to lease additional office, storage or other space outside the Center, all costs incurred by OPERATOR as a result of having to lease space shall be borne solely by OPERATOR and shall not reduce Adjusted Gross Receipts for the purpose of this Agreement.

## **Article V. NATURE AND SCHEDULING OF EVENTS.**

Section 5.01 Description of Events. The CITY will endeavor to bring a wide variety of conventions, trade and consumer shows, exhibits, entertainment events, meetings and civic functions to the Center. However, CITY makes no warranty, express or implied, concerning the predictability and/or probability of such events. It is the mutual goal of OPERATOR and CITY to solicit and obtain the maximum number of high-quality food and beverage-associated events.

Section 5.02 Scheduling of Events. Scheduling of all events requiring the services of OPERATOR shall be mutually performed by the Operator and the Center. All events tentatively scheduled by OPERATOR utilizing the Center shall be accepted and incorporated into the official Calendar of Events, provided those activities are consistent with the policies of Center as established by the CITY and provided that the events do not interfere or conflict with other events held at the Center.

Section 5.03 OPERATOR will cater events at CITY'S request upon at least Seven Days (7) advance notice at prices and upon such other terms as are mutually acceptable to the parties. OPERATOR will try to honor any shorter notice events to the best of their abilities. CITY will not be responsible for any charges made by third parties at the Center for catering functions.

Section 5.04 Hours of Operation. OPERATOR's designated representative shall be available for contact by phone during regular business hours, currently 8:00 a.m. to 5:00 p.m., Monday through Friday.

## **Article VI. FINANCIAL CONSIDERATION TO CITY.**

For the privilege of using the kitchen and its storage area for the preparation of any and all food services provided at the Center, OPERATOR will pay a 2% commission of total adjusted gross receipts on all events and meetings except those sponsored by the City of Lodi. Clients other than the City of Lodi and Hutchins Street Square will pay the OPERATOR 2% of the event-specific catering invoice for a "kitchen use fee."

## **Article VII. FINANCIAL REPORTS.**

Section 7.01 Payment. OPERATOR shall submit to the CITY by the twentieth (20th) calendar day after the last day of each Monthly Accounting Period, a report of sales activity for the previous Monthly Accounting Period along with the commission payment. The report shall provide daily detail of gross revenue specified by event number, type of service, and indicate total Adjusted Gross Receipts and commissions due to the CITY, as well as year-to-date totals. Such statement shall identify all deductions from gross revenues and be signed and certified by the OPERATOR. OPERATOR shall maintain all records based upon the Fiscal Year, ("Fiscal Year" or "FY"). OPERATOR shall submit to the CITY by the twentieth (20th) day following each year of this Agreement, a report of sales activity for the previous year. The report shall summarize gross revenue specified by type of service, and indicate commission due to the CITY.

Section 7.02 Records Maintenance.

- (a) During the term of this Agreement and for a period of three (3) years following the termination of this Agreement, OPERATOR shall maintain in accordance with generally accepted accounting principles, the full and complete records regarding all Food Services performed



under this Agreement. The CITY shall have the right to reasonably prescribe the form of records to be kept by OPERATOR in accordance with this provision.

- (a) CITY shall have the right, after reasonable notice, and at reasonable times to free access to all sales reports, correspondence, memoranda, or other records of the OPERATOR relating to this Agreement for the purpose of verification of Adjusted Gross Receipts reported by the OPERATOR during the term of this Agreement.
- (b) OPERATOR shall collect and promptly disburse all taxes required by Federal, California, and local authorities and shall pay any applicable taxes relating to Food Service operations, equipment, inventory and/or rents applicable to OPERATOR.

## **Article VIII. EMPLOYMENT.**

### **Section 8.01 General Guidelines.**

- (a) OPERATOR shall employ its own employees and engage its own subcontractors. All employees or subcontractors shall meet all the standards set forth below. OPERATOR shall be solely responsible for the payment of all federal, state, and local employment taxes of its employees.
- (b) The employees shall be neat and clean in appearance and be courteous towards the patrons, the public and their fellow employees. All employees, except key managers and office personnel, shall be neatly attired in uniforms.
- (c) All Operator's employees shall enter and leave the Center via the entrance(s) designated by the Director. Only those employees actually working shall be permitted in the Center without charge, and any employee observed in the Center at events in which they are not working and have not paid admission, may be removed by the Director after consultation with the OPERATOR. At no time will OPERATOR permit the free entrance of any person not a bona fide employee for an event or events and no surplus of employees will be permitted for any event.
- (d) OPERATOR shall include in its employee handbook a prohibition against employees performing their duties under the influence of alcohol or chemical substances or using such substances while at the Center. The Director shall advise OPERATOR of all violations of such provisions which are brought to her attention. OPERATOR shall take action with respect to such employees consistent with the provisions of the handbook and applicable laws.
- (e) OPERATOR shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees including the supervision of all services which relate to the general safety and welfare of any persons exposed to the Food Services performed under the Agreement by OPERATOR. OPERATOR agrees to fully cooperate with Center in any employee and public safety program sponsored by the Director. OPERATOR agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times.
- (f) OPERATOR acknowledges that in order to operate the Center in an efficacious manner, Center has adopted certain standards of conduct and terms of employment for all employees at the Center. These standards are embodied in this Agreement and may be contained in Operating Memoranda to be entered into by the parties in the future. OPERATOR agrees that it shall not enter into any contract or arrangement with any employee or group of employees which would in any way modify these provisions without the express written consent of Center.
- (g) OPERATOR shall provide training and direction to its employees to ensure quality of service and personal interaction with Licensees, Center staff and internally within OPERATOR's staff. Center

expects all staff associated with the Center to approach their assigned responsibilities with an attitude of service to the Licensees above and beyond common courtesy.

Section 8.02 Minimum Staffing. OPERATOR shall provide event staffing in accordance with the following minimum standards:

- (a) Waiters/waitresses – one for every twenty-four (24) guests at sit down meals; one for every thirty-two (32) guests at buffets; one for every one hundred (100) guests at cocktail parties. Bus staff shall be provided at one-half (1/2) the ratio of waiter/waitresses, provided that the physical property and sales expectations warrant as approved by the Director.
- (b) Bartenders – one for every one hundred (100) guests for host bars; one for every one hundred twenty-five (125) guests for cash bars. Provided that the physical property and sales expectations warrant as approved by the Director.
- (c) OPERATOR shall increase the number of personnel as requested by the Director if, in the Director's sole discretion, the level of service to the public is deemed unsatisfactory. Charges will be billed accordingly.
- (d) OPERATOR agrees that its Food and Beverage Service Manager or his/her designee shall be present at the Center during events with Food Service and shall be authorized to be served with complaints and notices by Center.

Section 8.03 Supervision by the Director. The Director reserves the right to request the OPERATOR to exclude from the Center, any employee whose employment is not considered to be in the best interest of the Center. The Director shall have the prior right to approve the selection of OPERATOR's management at the Center, which approval shall not be unreasonably withheld. OPERATOR agrees to pay prevailing wages in the Lodi, California area. The City reserves the right to require OPERATOR to conduct pre-hiring screening or testing of all employees, including fingerprint clearance, to the extent permitted by law. No replacement of OPERATOR's management at the Center will be permitted without prior approval of the Director, including interviewing and approving a replacement Food and Beverage Service Manager, which approval shall not be unreasonably withheld delayed or conditioned.

Section 8.04 OPERATOR shall provide the Director with the following upon request:

- (a) Copy of OPERATOR's Employee Handbook;
- (b) A statement identifying the sources to be used for obtaining non-management labor; and
- (c) An outline of the entry-level training programs for all customer-contact personnel.

## **Article IX. EQUIPMENT.**

The OPERATOR shall on or before the date of execution of this contract prepare an existing Food Service equipment inventory (the "Inventory") for review by the Director. When the Inventory is signed by OPERATOR and the Director, it shall be incorporated into this Agreement. The OPERATOR shall update the Inventory each Fiscal Year and make recommendations with respect to replacement or upgrades of equipment provided for OPERATOR's use.

## **Article X. OPERATIONS GENERAL GUIDELINES.**

Section 10.01 The rights of any Licensee shall not be infringed upon by any activity of OPERATOR or any of its employees. The activities of OPERATOR shall be such as to render service to patrons of the

Center in a dignified manner. OPERATOR shall cause its employees to abide by the rules and regulations of Center as to the conduct of all employees at the Center.

Section 10.02 OPERATOR shall operate the spaces designated for the purpose of the sale to the patrons of beverages, food, and confections for the convenience of the patrons during all designated Center events and at such other times as shall be reasonably required by the Director.

Section 10.03 Table skirting shall be provided and installed by Center for meetings and provided and installed by OPERATOR for functions with Food Service.

Section 10.04 Supervision by the Director. The Director shall issue reasonable rules and regulations for the operation of Food Services and OPERATOR shall operate Food Services in accordance with such rules and regulations, which may be amended from time to time. Except as otherwise expressly stated herein, the Director shall decide any and all questions that may arise as to the acceptability of services rendered by OPERATOR, as to the manner of performance, and acceptable fulfillment of this Agreement.

Section 10.05 OPERATOR shall ensure that there is an inventory of food service equipment and small wares adequate to provide full services to the patrons of the Center when contracted to provide food services

Section 10.06 OPERATOR shall replace any equipment damaged beyond repair, or rendered useless by wear and tear, unless in the opinion of the Director such equipment is unnecessary to the proper functioning of the Food Services. The Center shall replace any equipment damaged beyond repair due to City employee's negligence unless in the opinion of the Director and OPERATOR the equipment is unnecessary to the proper functioning to the Food Services. All replacement equipment shall be subject to approval of the Director as to type and similarity to that replaced.

Section 10.07 Compliance with Law. The Food Services shall materially comply with the laws, regulations, and ordinances of the United States Government, the State of California, and the City of Lodi and County of San Joaquin. Such operations must be conducted so as not to unreasonably interfere, through noise, odor, visual aesthetics, with any Licensee's or patrons enjoyment of the Convention Center facilities. OPERATOR shall procure and keep in force during the term of this Agreement all permits and licenses required by all laws and regulations of the United States government, the State of California, and the City and County of Lodi.

## **Article XI PRODUCTS AND PRICING.**

OPERATOR recognizes that the quality of items sold and services performed at the Center is a matter of highest concern to the City and is the essence of this Agreement. OPERATOR shall provide products of quality, and at prices consistent with similar products presently being offered in other similar facilities. The Director reserves the right to determine, in his/her reasonable discretion, whether a particular product complies with these standards. Price increases shall require the prior written approval of the Director.

Section 11.01 Quality.

- (a) OPERATOR represents and warrants that all items it sells will be of the highest practicable quality consistent with the pricing schedules agreed upon by OPERATOR and the Director. Special attention will be given by OPERATOR to the promptness and delivery of all services.
- (b) OPERATOR shall procure all Food Products and operating supplies from local Lodi area sources where possible, provided local Lodi area sources meet quality requirements and are price competitive. The Director shall have the final approval of all OPERATOR's suppliers other than alcoholic beverage suppliers.

- (c) All Food Products kept for sale shall be subject to inspection, and approval or rejection by the Director during all times that Food Services are offered. Rejected Food Products are those that pose a health risk or are materially below the standards established by this Agreement shall be disposed of immediately and shall not be returned for sale.

Section 11.02 Approval and Pricing. The Director shall meet with OPERATOR to review Food Products and prices at least on an annual basis on or about May 1 of each year with a target effective date of July 1. Prices may be changed only with the Director's prior written approval. Whenever unique economic conditions result in unusual Food Product or labor cost increases to OPERATOR, the Director will consider a request by OPERATOR for price changes at times other than the annual date specified above. Approval of price changes shall not be unreasonably withheld.

## **Article XII. PROMOTION.**

Section 12.01 Sales Staff. OPERATOR shall engage a full-time banquet catering sales person. All OPERATOR's sales activities shall be conducted and operated under the supervision of the Director and shall in no way interfere with the orderly operation of any event. All sales activities shall be conducted at such times and at such locations designated by the Director. While OPERATOR is encouraged to pursue bookings for certain functions, all such bookings must be approved by the Director, which approval shall not be unreasonably withheld, so long as such sales are commercially profitable for Center and OPERATOR and are not in conflict with other scheduled events at the Center or Licensees. OPERATOR shall not advertise in any manner or form, on or about the Center except by means of such signs or forms of advertising as may be approved by the Director.

## **Article XIII. UTILITIES.**

Center shall provide gas, electricity, and water services for use by OPERATOR in the Premises. OPERATOR shall participate in the Center's conservation and energy management program(s) for its operations throughout the term of this Agreement. OPERATOR shall provide its own signage, telephone, FAX and data lines.

## **Article XIV. MAINTENANCE AND CLEANUP.**

Section 14.01 Equipment. OPERATOR shall maintain all equipment and small wares used in performance of its duties, including rolling stock, in a good state of repair, including routine maintenance or routine repair necessitated by ordinary use.

Section 14.02 Premises.

- (a) OPERATOR shall maintain all office space, storage rooms, alcoves, corridors, booths, trash facilities, kitchens and food service facilities in a clean and sanitary condition in accordance and consistent with all applicable rules of Center, demands and requirements of law, pertinent health and sanitary codes, and requirements of duly authorized health authorities of the City of Lodi, County of San Joaquin and any other health department having jurisdiction.
- (b) All refuse and waste material created by OPERATOR's operations in all public areas shall be promptly disposed of by OPERATOR after each event by delivery to a central location at the Center. Wet refuse must be stored in watertight containers pending removal from the Center. Waste foods shall be kept in closed metal containers until removed from the Center. All boxes shall be broken down, flattened and tied. CITY shall be responsible for disposal from the Center. The entire area within a radius of twenty-five (25) feet of each stand, bar area, commissary and work area, shall be kept free and clear from all loose trash, spills to floors, walls, windows or other property in said radius by reason of operation of said stand. OPERATOR shall employ the necessary personnel before, during and after hours of any event to comply with the provisions.

- (c) The Director shall have the right to inspect the Food Service Premise, and equipment at any reasonable time provided the inspection does not unreasonably interfere with OPERATOR's operations. The Director at her reasonable discretion, shall determine acceptable performance levels relative to maintenance and sanitary conditions.

## **Article XV. RECYCLING PROGRAM.**

OPERATOR agrees to work with the Center to ensure effective recycling. OPERATOR shall be responsible for separating cans, cardboard, paper, plastic and glass for proper disposal.

## **Article XVI. INDEMNITY.**

Section 16.01 Indemnity: OPERATOR shall fully indemnify and save harmless, CITY, its elected and appointed boards, commissions, officers, agents and employees, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonable incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), to which any or all of them may be subjected, to the extent such Liabilities are caused by or result from any negligent act or omission of OPERATOR, its subOPERATORS or agents, and their respective officers and employees, in connection with the performance or nonperformance of this Agreement, whether or not the CITY, its elected and appointed boards, commissions, officers, agents and employees, and each and every one of them, reviewed, accepted or approved any service or work product performed or provided by the OPERATOR, and whether or not such Liabilities are litigated, settled or reduced to judgment.

Section 16.02 Obligation to Defend: OPERATOR shall, upon CITY's request, defend at OPERATOR's sole cost, any action, claim, suit, cause of action or portion thereof which asserts or alleges Liabilities to the extent such Liabilities are caused by or result from any negligent act or omission or willful misconduct of OPERATOR, its subcontractors or agents, and their respective officers and employees, in connection with the performance or nonperformance of this Agreement, whether such action, claim, suit, cause of action or portion thereof is well founded or not.

Section 16.03 Insurance Policies: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights, nor shall the limits of such insurance limit the liability of OPERATOR hereunder. The provisions of this Section shall survive any expiration or termination of this Agreement.

Section 16.04 The City shall indemnify, defend, and hold harmless the OPERATOR and its agents, officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to, attorneys' fees and court costs, arising out of or in connection with (i) a breach by the City of its representations hereunder or (ii) the acts, errors, omissions, conduct or operations of the City to the extent that such damage, loss or expense is caused or is claimed or alleged to have been caused, by any negligent act, error, omission, conduct, or operation of the City, provided that the indemnification provided for in this sentence shall not cover or apply to any matter that the City is indemnified against by the OPERATOR pursuant to this Agreement.

## **Article XVII. INSURANCE REQUIREMENTS.**

During the entire term of this Agreement, OPERATOR shall maintain the following insurance:

Section 17.01 Minimum Scope of Insurance. Coverage should be at least as broad as:

- (a) Insurance Services Office Form No. CG 0001 (Commercial General Liability);
- (b) Insurance Services Office Form No.: CA 0001 (Ed. 1/87) (Automobile Liability, Code "any auto");

- (c) Workers' Compensation as required by the Labor Code of the State of California, and Employers' Liability Insurance.

Section 17.02 Minimum Limits of Insurance. OPERATOR shall maintain limits no less than:

- (a) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- (b) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury, personal injury and property damage.
- (c) Liquor Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- (d) Workers' Compensation and Employers' Liability: Workers' compensation limits as required by the Labor Code of the State of California and Employers' Liability limits of \$3,000,000 per accident.

Section 17.03 Deductibles and Self-Insured Retention's: Any deductibles or self-insured retentions must be declared to the CITY.

Section 17.04 Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

- (a) General Liability and Automobile Liability Coverages: CITY, its elected and appointed boards, commissions, officers, agents and employees, and each and every one of them, shall be covered as insured as respects: liability arising out of activities performed by or on behalf of OPERATOR; products and completed operations of OPERATOR; premises owned, leased or used by OPERATOR.
- (b) OPERATOR's insurance coverage shall be primary insurance as respects CITY, its elected and appointed boards, commissions, officers, agents and employees, and each and every one of them. Any insurance or self-insurance maintained by CITY, its elected and appointed boards, commissions, officers, agents and employees, and each and every one of them, shall be in excess of OPERATOR's insurance and shall not contribute with it.
- (c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its elected and appointed boards, commissions, officers, agents and employees.
- (d) Coverage shall state that OPERATOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (e) All Coverages: OPERATOR shall request that each insurance policy required by this Agreement shall be endorsed to state that coverages shall not be canceled except after thirty (30) days prior written notice has been given to CITY. In addition, OPERATOR agrees that it shall not reduce its coverage or limits on any such policy except after thirty (30) days prior written notice has been given to CITY and CITY approves the reduction in coverage or limits. OPERATOR further agrees that it shall not increase any deductibles or self-insured retentions on any such policy except after thirty (30) days prior written notice has been given to CITY.

Section 17.05 Acceptability of Insurers: Insurance shall be placed with insurers with a Bests' rating of no less than A:VII. This requirement may, however, be waived in individual cases for Errors and Omissions Coverages only; provided, however, that in no event shall a carrier with a rating below B:IX be acceptable.

Section 17.06 Verification of Coverage: OPERATOR shall furnish CITY with certificates of insurance showing compliance with the above requirements and with original endorsements effecting all coverages required by this Agreement. The certificates and/or endorsements shall set forth a valid policy number for CITY, and shall indicate the Issue Date, Effective Date and Expiration Date. The certificates and endorsements for each insurance policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificates and endorsements shall be forwarded to the CITY's Risk Manager.

## **Article XVIII. TERMINATION.**

### **Section 18.01 Upon OPERATOR's Default.**

- (a) In the event OPERATOR shall default in any of the payments described in Articles 4 and 6, or fail to perform any material obligation or condition of this Agreement, the Director shall notify OPERATOR of such default in writing. Such notice shall be deemed delivered upon presentation to the Food and Beverage Service Manager. A copy of such notice shall also be mailed to OPERATOR.
- (b) If the default is with respect to any payment required to be made by OPERATOR, OPERATOR shall correct such default within five (5) days of receipt of notice of default from Center. If the default is of a non-monetary nature, OPERATOR shall cure, or take all action necessary to begin the curative process, within ten (10) days of receipt of notice of default. In the event OPERATOR fails to cure or begin curing the default within the time specified, or such greater period as the CITY may permit, the CITY shall have all rights accorded by law including the right to terminate this Agreement.
- (c) In the event OPERATOR cannot perform its obligations under this Agreement because of a labor dispute involving OPERATOR's employees, such non-performance will not be considered a default; provided however, that in the event of a labor dispute, the CITY may operate the concessions until the labor dispute is settled.
- (d) Failure on the part of Center to promptly notify OPERATOR of default, shall not be deemed a waiver by Center of Center's rights on default of OPERATOR or such default at a subsequent time.

Section 18.02 Other Bases for Termination. In the event a decree or order by a court having jurisdiction shall be issued (i) adjudging OPERATOR bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of OPERATOR under any section of the Bankruptcy Code, as amended; (iii) ordering or approving the winding up or liquidation of OPERATOR affairs; (iv) appointing a receiver, liquidator or trustee in bankruptcy for OPERATOR or its property; or (v) if OPERATOR shall institute proceedings to be adjudicated a voluntary bankrupt, shall consent to the filing of any bankruptcy or insolvency proceedings against it; or (vi) if OPERATOR shall file a petition or seek reorganization under any state insolvency law, or shall admit in writing its inability to pay its debts generally as they become due, or take any action in furtherance of any of the aforesaid purposes; or (vii) if OPERATOR shall abandon this Agreement; or (viii) if a court shall have finally determined that OPERATOR has discriminated on account of color, race, religion, ancestry, national origin, sex or disability; then Center may terminate this Agreement and all rights of OPERATOR to continue to operate the concession thereunder.

### **Section 18.03 Post Termination Obligation.**

- (a) In the event that the Agreement is terminated upon default, the CITY may assume control of the operation and all equipment installed at the Center and Center may continue to operate the same, until satisfactory arrangements may be reached with OPERATOR concerning the default, or until CITY shall obtain the services of another operator. During the period of operation by

the CITY, CITY shall be entitled to any supplies and inventory of OPERATOR on hand and OPERATOR shall not be entitled to any monies received from such operations except for reimbursement of the cost of supplies or inventories utilized during such period if not previously charged to operating expense.

- (b) In the event of a termination of this Agreement, either through expiration of the term thereof or through termination for cause, OPERATOR shall not be permitted to surrender its alcoholic beverage license in effect for the Center unless Center were to qualify for an alcoholic beverage license pursuant to Department of Alcoholic Beverage Control regulations. Center acknowledges that, unless Center were to qualify for a license, OPERATOR's license may only be transferred to a new operator or surrendered to the Department of Alcoholic Beverage Control.
- (c) In the event of termination of this Agreement, OPERATOR shall be liable for all payments required to be made to the Center up to and including said date of termination and shall pay the cost of restoring all small wares and equipment for which it is responsible, based on the most recent inventory accepted by the Director.

## **Article XIX. ARBITRATION.**

In the event of a dispute between CITY and OPERATOR regarding the provisions of this Agreement, the parties may mutually agree to settle the claim or dispute, including the amount of any damages suffered, by binding arbitration or mediation in Lodi, California. Any dispute shall be governed by and construed in accordance with the laws of the State of California.

## **Article XX. MISCELLANEOUS.**

Section 20.01 Assignment. The rights and privileges granted hereunder shall not be assigned or transferred in any manner whatsoever by OPERATOR without written approval of the CITY.

Section 20.02 Modification. No agreement to modify, or modification of, this Agreement shall be binding on the parties unless the same is reduced to writing and executed by both parties.

Section 20.03 Operation Beyond Term. In the event that OPERATOR should operate after the expiration of the term of this Agreement, or termination for any other cause, such operation shall be deemed not to be a renewal or extension of the Agreement. During such period of operation, OPERATOR shall make payment to the CITY pursuant to the terms of this Agreement.

Section 20.04 Independent OPERATOR Status. OPERATOR shall be an independent OPERATOR and nothing contained in this Agreement shall be construed to create a joint venture or partnership by or among CITY and OPERATOR, nor shall OPERATOR hold itself out as or be considered an agent or employee of CITY.

## **Article XXI. ENTIRE AGREEMENT.**

This Agreement, together with the operating memoranda, if any, embodies and constitutes the sole and entire agreement between the parties. There are no terms, obligations, covenants or conditions between the parties other than as contained herein.

## **Article XXII. NOTICES.**

All notices, requests, demands and other communications required or permitted hereunder shall be deemed to have been duly given when personally delivered or two days after being mailed by first class mail, with postage prepaid or upon delivery by a recognized overnight delivery service as follows:



Any party may change its address by providing notice of such change to the other parties as set forth above.

**Article XXIII. ATTORNEY'S FEES.**

If any action, proceeding or arbitration arising out of or relating to this Agreement is commenced by either party, the prevailing party shall be entitled to receive from the other party in addition to any other relief that may be granted, the reasonable attorney's fees, costs and expense incurred in the action, proceeding or arbitration by the prevailing party.

Executed as of the day and year first above stated.

OPERATOR:

CITY OF LODI

\_\_\_\_\_

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Title

Attest:

\_\_\_\_\_  
City Clerk

(CORPORATE SEAL)

Approved as to form:

\_\_\_\_\_  
City Attorney

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE  
CITY MANAGER TO EXECUTE A ONE-YEAR AGREEMENT FOR  
ON-SITE CATERING AT HUTCHINS STREET SQUARE

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a one-year on-site Catering Agreement at Hutchins Street Square with Wine Valley Catering, Inc.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt a resolution authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the *Lodi Residential Swimming Pool Pump & Motor Rebate Program* (EUD)

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Electric Utility Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution authorizing the City Manager to appropriate Public Benefits Program funds in the amount of \$25,000 for the *Lodi Residential Swimming Pool Pump & Motor Rebate Program* (Note: eligible participants must be City of Lodi Electric utility customers.)

**BACKGROUND INFORMATION:** The proposed *Lodi Residential Swimming Pool Pump & Motor Rebate Program* is a new effort designed to enhance energy efficiency and conservation for those Lodi residents (apartment complex owners/managers are also eligible for a rebate under this program) who have a swimming pool on their Lodi property.

The intent of this program is to encourage swimming pool owners to install high efficiency pumps or motors; there will be two (2) rebate components in this proposed program:

- 1) \$150 rebate\* for qualifying single-speed energy efficient motors;
- 2) \$325 rebate for qualifying two-speed pumps and motors (*these approved two-speed pumps & motors must be of equal or lesser horsepower than the horsepower of the existing single-speed pump and motor; a control system capable of controlling both low and high speeds separately must be installed*).

The pool pump rebates are only for filtration pumps associated with in-ground swimming pools; for motor replacement, pool booster pumps, aboveground pool pumps and spa pumps are not eligible for a rebate. Customers must be current on their City of Lodi utility account in order to qualify for a rebate under this program, and the rebates are available on a first-come, first-served basis, until funds are exhausted.

*\*In order to qualify for the \$150 rebate on single-speed pumps and motors, customers must reduce the maximum horsepower by 25%, reduce daily pump time by a minimum of one hour, and shift daily pump time to off-peak hours (traditional 'on-peak' hours in California are noon to 6pm).*

Installing high efficiency swimming pool pumps and motors, coupled with reduced daily pump time and operating the pump outside of 'on-peak' hours, will decrease a customer's home energy consumption by a minimum of 10 percent. Electric Utility staff respectfully recommends approval of the *Lodi Residential Swimming Pool Pump & Motor Rebate Program* as qualifying component of the City of Lodi Public Benefits Program.

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

**Adopt a resolution authorizing the City Manager to appropriate \$25,000 in Public Benefit Program funds for the *Lodi Residential Swimming Pool Pump & Motor Rebate Program (EUD)***  
**April 7, 2004**  
**Page 2 of 2**

*Note: If approved on April 7, 2004, Electric Utility staff will provide a brief overview of this proposed rebate program at the April 21, 2004 City Council meeting, under 'Presentations.'*

**FUNDING:** 164605 – Public Benefits Program (Category: Demand-side Management)

**Funding Approval:** \_\_\_\_\_  
Vicky McAthie, Finance Director

\_\_\_\_\_  
Alan N. Vallow  
Electric Utility Director

**PREPARED BY:** Rob Lechner, Manager of Customer Service & Programs

ANV/RL/lt

cc: City Attorney

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING  
THE CITY MANAGER TO APPROPRIATE PUBLIC BENEFITS  
PROGRAM FUNDS FOR THE LODI RESIDENTIAL SWIMMING  
POOL PUMP & MOTOR REBATE PROGRAM

=====

WHEREAS, the State has mandated that beginning January 1, 1998, the City of Lodi is obligated to fund various programs through a Public Benefits Charge based on an historical electric revenue requirement; and

WHEREAS, the requirement amounts to approximately \$1 million per year that must be dedicated to qualifying programs such as energy efficiency. A further stipulation is that these efforts must be done on the customer's side of the meter in order to qualify; and

WHEREAS, the *Lodi Residential Swimming Pool Pump & Motor Rebate Program* is a new effort designed to enhance energy efficiency and conservation for those Lodi residents (apartment complex owners/managers are also eligible for a rebate under this program) who have a swimming pool on their Lodi property; and

WHEREAS, the intent of this program is to encourage swimming pool owners to install high-efficiency pumps or motors; there will be two (2) rebate components in this proposed program:

- 1) \$150 rebate\* for qualifying single-speed energy efficient motors; and
- 2) \$325 rebate for qualifying two-speed pumps and motors (*these approved two-speed pumps and motors must be of equal or lesser horsepower than the horsepower of the existing single-speed pump and motor; a control system capable of controlling both low and high speeds separately must be installed*).

*\*In order to qualify for the \$150 rebate on single-speed pumps and motors, customers must reduce the maximum horsepower by 25%, reduce daily pump time by a minimum of one hour, and shift daily pump time to off-peak hours (traditional 'on-peak' hours in California are noon to 6 p.m.).*

WHEREAS, the pool pump rebates are only for filtration pumps associated with in-ground swimming pools; for motor replacement, pool booster pumps, aboveground pool pumps, and spa pumps are not eligible for a rebate. Customers must be current on their City of Lodi utility account in order to qualify for a rebate under this program, and the rebates are available on a first-come, first-served basis, until funds are exhausted.

WHEREAS, installing high efficiency swimming pool pumps and motors, coupled with reduced daily pump time and operating the pump outside of "on-peak" hours, will decrease a customer's home energy consumption by a minimum of 10 percent; and

WHEREAS, Electric Utility staff respectfully recommends approval of the *Lodi Residential Swimming Pool Pump & Motor Rebate Program* as a qualifying component of the City of Lodi Public Benefits Program.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to appropriate Public Benefits Program funds in the amount of \$25,000.00 for the Lodi Residential Swimming Pool Pump & Motor Rebate Program, specifically designed for Lodi Electric Utility customers.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Supporting the Continuous Operation of the Defense Distribution Center San Joaquin

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Community Development Director

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**RECOMMENDED ACTION:** Adopt the attached Resolution.

**BACKGROUND INFORMATION:** The San Joaquin Council of Governments (SJCOG) has requested that the cities within the County adopt a Resolution supporting the continuous operation of Defense Distribution Center San Joaquin (DDJC).

The DDJC is part of the Defense Department's nationwide military requisition and parts facilities. The two sites in San Joaquin County are being considered as part of a consolidation and closure plan that will be introduced to the President as early as 2005. The SJCOG staff report does a good job in outlining the negative impacts to the County should DDJC be one of the facilities closed. Obviously, we would feel some of that negative impact; therefore, we have included a Resolution calling for the City Council's support of the facility.

**FUNDING:** NA

Konradt Bartlam  
Community Development Director

KB/lw

Attachments

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager



**RESOLUTION**  
**SAN JOAQUIN COUNCIL OF GOVERNMENTS**

**R-04-24**

**RESOLUTION SUPPORTING THE CONTINUOUS OPERATION OF DEFENSE  
DISTRIBUTION CENTER SAN JOAQUIN**

WHEREAS, the San Joaquin Council of Governments (SJCOG) is a Metropolitan Planning Organization (MPO), pursuant to State and Federal designation; and

WHEREAS, SJCOG's mission is to "advocate for regional and interregional issues"; and

WHEREAS, the Defense Distribution Center San Joaquin (DDJC) with installations and facilities in Tracy and Lathrop has been an integral part of this region's well-being by contributing \$178 million annually to the local economy, leasing spaces for various agencies and organizations, and providing employment opportunities to more than 2,500 local residents; and

WHEREAS, closures of both, or either of DDJC's two sites would create significant adverse impacts to the local economy and the communities well-being, with a possible loss of local sales and employment.

NOW, THEREFORE, BE IT RESOLVED, that SJCOG supports the continuous operation of Defense Distribution Center San Joaquin; and

BE IT FURTHER RESOLVED, that SJCOG calls for support from the California State Senate: Senator Michael J. Machado and Senator Charles Poochigian; and

BE IT FURTHER RESOLVED, that SJCOG calls for support from the California State Assembly: State Assemblymember Greg Aghazarian, State Assemblymember Guy Houston, State Assemblymember Barbara S. Matthews, and State Assemblymember Alan Nakanishi; and

BE IT FURTHER RESOLVED, that SJCOG calls for support from Governor Arnold Schwarzenegger; and

BE IT FURTHER RESOLVED, that SJCOG calls for support from the U.S. Senate: Senator Barbara Boxer and Senator Dianne Feinstein; and,



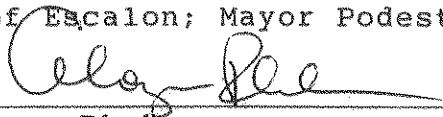
BE IT FURTHER RESOLVED, that SJCOG calls for support from the U.S. House of Representatives: Representative Dennis Cardoza and Representative Richard Pombo.

PASSED AND ADOPTED this 26<sup>th</sup> day of February 2004, by the following vote of the Board of the San Joaquin Council of Governments, to wit:

AYES: Mayor Bilbrey, City of Tracy; Councilman Giovanetti, City of Stockton; Councilman Harris, City of Manteca; Councilmember Howard, City of Lodi; Supervisor Mow, San Joaquin County; Councilman Restuccia, City of Ripon; Supervisor Sieglock, San Joaquin County; Mayor Rhodes, City of Lathrop

NOES: None

ABSENT: Councilman Haskin, City of Escalon; Mayor Podesto, City of Stockton

  
\_\_\_\_\_  
Gloryanna Rhodes  
Chair

## STAFF REPORT

**SUBJECT:** Support Defense Distribution Center San  
Joaquin's Continuous Operation

**RECOMMENDED ACTION:** Motion to adopt Resolution R-04-24  
Supporting the Continuous Operation of the  
Defense Distribution Center San Joaquin

### DISCUSSION:

#### **Background:**

Defense Distribution Center San Joaquin (DDJC) currently have two sites, one in Lathrop and another one in Tracy. These sites are managed by the Defense Logistics Agency (DLA) under the U.S. Department of Defense. In early 1999, DLA announced its reconfiguration of DDJC by transferring approximately 700 of Lathrop site's 800 employees to the Tracy site by late 2000. These sites, along with 20 other sites nationwide, are responsible for the majority of all U.S. military requisitions and repair parts. DLA is considering a consolidation and closure plan, and will probably introduce a list of proposed closures to the President as early as 2005. DDJC's Lathrop site is possibly one of the closures being considered, though all of the sites in the nation will be evaluated.

#### **Closure's Negative Impacts on Local Communities:**

The closure of DDJC certainly will be adverse to the well-being of local communities. DDJC contributes \$178 million annually to the local economy, based on DDJC's statistics. These two DDJC sites currently employ approximately 1,525 people, mostly local civilians. In addition, DDJC also leases its space to other agencies and organization. There are approximately 1,000 employees working for these agencies and organizations in addition to DDJC's own employees.

Based on SJCOG's analysis, an average San Joaquin resident would generate \$14,816 taxable sales annually.<sup>1</sup> Therefore, 2,525 local residents' continued employment would translate into \$37.4 million local taxable sales annually. Loss of jobs would create ripple effects to those businesses that are currently serving DDJC and its employees. Thus, a closure does not only mean short-term loss of employment, but it could also create a significant hardship for local businesses that DDJC and its employees currently sustain.

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<sup>1</sup> Based on the CA Board of Equalization data, the 15-year average taxable sales to personal income ratio for San Joaquin residents in 1999 is 44.56%. CA Department of Housing and Community Development statistics indicate that a one-person household in San Joaquin received a median income of \$33,250 in 2001, thus such person would generate an average of \$14,816 taxable sales annually.

An examination of the transfer of 700 employees out of DDJC's Lathrop site in 1999 can further demonstrate the extent of a closure's possible adverse effects to a local economy. Despite the fact that many cities in San Joaquin have experienced an increase in business establishments and employment from 1999 to 2000, Lathrop has actually suffered a decline for both measures. The number of business establishments and employment declined 6% and 5% respectively the year after the transfer, based on the data from the U.S. Census Bureau. In addition, the data from CA Board of Equalization indicate that taxable sales in Lathrop has a very moderate growth of 10% between 1999 and 2000, significantly lower than the neighboring cities of Manteca (+16%) and Stockton (+14%). Even though these indicators of slow local economy cannot be entirely attributed to the Lathrop area's loss of 700 jobs because of the transfer, it is certain that the loss of these jobs and the associated economic ripple effects have created unfavorable local economic conditions for a faster local economic growth.

Aside from the negative economic impacts, the distress of employment uncertainty for a large number of DDJC employee families would also cast negative impacts on local communities' cohesion. The social problems associated with the closure would be difficult to assessed, but such problems are usually grave and long-term.

#### Recommendations:

The Defense Distribution Center San Joaquin has been an integral part of the region's economy and community well-being. San Joaquin County has already lost about 2,000 jobs due to the closure of the Rough and Ready Island naval base in the early 1990s. Additional closure of any DDJC sites will certainly create further hardship, both economically and socially, to local communities. Therefore, SJCOG staff recommends the Board to adopt the resolution of supporting the continuous operation of the Defense Distribution Center San Joaquin.

In addition, staff also recommends the Board to authorize the Executive Director of SJCOG to solicit support from local jurisdictions, legislators and interested parties to support the continuous operation of the Defense Distribution Center San Joaquin.

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
SUPPORTING THE CONTINUOUS OPERATION  
OF DEFENSE DISTRIBUTION CENTER OF  
SAN JOAQUIN

=====

WHEREAS, the San Joaquin Council of Governments (SJCOG) is a Metropolitan Planning Organization (MPO), pursuant to State and Federal designation; and

WHEREAS, SJCOG's mission is to "advocate for regional and interregional issues"; and

WHEREAS, the Defense Distribution Center San Joaquin (DDJC) with installations and facilities in Tracy and Lathrop has been an integral part of this region's well-being by contributing \$178 million annually to the local economy, leasing spaces for various agencies and organizations, and providing employment opportunities to more than 2,500 local residents; and

WHEREAS, closures of both, or either of DDJC's two sites would create significant adverse impacts to the local economy and the communities well-being, with a possible loss of local sales and employment.

NOW, THEREFORE, BE IT RESOLVED, that consistent with SJCOG's request for cities' support for the continuous operation of Defense Distribution Center San Joaquin; and

BE IT FURTHER RESOLVED, that the City of Lodi calls for support from the California State Senate: Senator Michael J. Machado and Senator Charles Poochigian; and

BE IT FURTHER RESOLVED, that the City of Lodi calls for support from the California State Assembly: State Assemblymember Greg Aghazarian, State Assemblymember Guy Houston, State Assemblymember Barbara S. Matthews, and State Assemblymember Alan Nakanishi; and

BE IT FURTHER RESOLVED, that the City of Lodi calls for support from Governor Arnold Schwarzenegger; and

BE IT FURTHER RESOLVED, that the City of Lodi calls for support from the U. S. Senate: Senator Barbara Boxer and Senator Dianne Feinstein; and

BE IT FURTHER RESOLVED, that the City of Lodi calls for support from the U. S. House of Representatives: Representative Dennis Cardoza and Representative Richard Pombo.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt resolution to revise the current abatement fee schedule for rotating contractor list

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Community Development Department

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**RECOMMENDED ACTION:** That the City Council adopt by Resolution the attached Abatement Fee Schedule.

**BACKGROUND INFORMATION:** On December 20, 2000, the City Council adopted a Resolution establishing an Abatement Fee Schedule and Policies and Procedures for Rotating Abatement Contractor Listing.

That Fee Schedule has successfully been implemented since that time by the Community Improvement Division through the code enforcement activity of boarding up vacant, unsecured buildings and the removal of garbage, junk and debris in those cases where the owner has failed to voluntarily secure or clean up their properties after having been given due notice.

The standardized fees based upon the size of window or door openings has streamlined that abatement process considerably and ensured that costs assessed against properties are reasonable.

Since the original adoption of that Abatement Fee Schedule in 2000, material costs for plywood have skyrocketed and contractors that participate in the rotation list for abatements have voiced concern that the fees do not cover the current cost of providing the abatement service. Staff has researched and verified that in the past four years, the cost of plywood has doubled.

Staff has reviewed the existing fee schedule and has calculated that an increase of \$5 for every half-sheet used and \$10 for every full-sheet used would be an appropriate adjustment to account for the increase in material costs. The revised Abatement Fee Schedule attached as Exhibit A reflects those adjustments. Exhibit B provides a comparison on just those fees that are being revised or adjusted.

There are no revisions necessary to any other portion of the fee schedule.

**FUNDING:** None Required

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Konradt Bartlam  
Community Development Director

KB/jw

Attachment

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

cc: Joel Harris, Purchasing Agent

CITY OF LODI  
COMMUNITY DEVELOPMENT DEPARTMENT  
**ABATEMENT FEE SCHEDULE FOR ROTATING CONTRACTOR LIST**  
(April 2004)

ITEM #	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
	<b><u>SECURING STRUCTURES</u></b>			
1.	Plywood Board-Up, Door, 4'x8'		\$80	
2.	Plywood Board-Up, Double Door, 8'x8'		\$170	
3.	Plywood Board-Up, Window, <2'6"x 4'		\$50	
4.	Plywood Board-Up, Window, <4'x4'		\$60	
5.	Plywood Board-Up, Window, <4'x6'		\$75	
6.	Plywood Board-Up, Window, <4'x8'		\$80	
7.	Plywood Board-Up, Window, <8'x8'		\$170	
8.	Plywood Board-Up, Crawl Space Opening		\$60	
9.	Plywood Board Up, Exterior Basement Door, 6'x7' <i>Using 3/4" Material</i>		\$215	
10.	Replace Single Car Garage Door		\$270	
11.	Replace Double Car Garage Door		\$535	
12.	Replace Sliding Glass Door, 6'		\$360	
13.	Replace Wood Basement Door, 6'x5'		\$185	
14.	Replace Front Double Wood Entry Doors		\$465	
15.	Replace Garage Pedestrian Door		\$155	
16.	Replace Under Floor Vents		\$30	
17.	Replace Attic Vents		\$35	
	<b>Securing Subtotal</b>			
	<b><u>PROPERTY CLEAN UPS</u></b>			
18.	Remove Garbage, Junk and Debris (hourly rate)	Hrs.	\$35	
19.	Remove Weeds and Shrubbery (hourly rate)	Hrs.	\$25	
	<b>Clean Up Subtotal</b>			
	<b>Total Amount</b>			

**EXHIBIT A**

Item #	Description	Current	Proposed
--------	-------------	---------	----------

		<b>Fees</b>	<b>Fees</b>
1.	Plywood Board-Up, Door, 4'x8'	\$70	\$80
2.	Plywood Board-Up, Double Door, 8'x8'	\$150	\$170
3.	Plywood Board-Up, Window, <2'6"x 4'	\$45	\$50
4.	Plywood Board-Up, Window, <4'x4'	\$55	\$60
5.	Plywood Board-Up, Window, <4'x6'	\$65	\$75
6.	Plywood Board-Up, Window, <4'x8'	\$70	\$80
7.	Plywood Board-Up, Window, <8'x8'	\$150	\$170
8.	Plywood Board-Up, Crawl Space Opening	\$60	\$60
9.	Plywood Board Up, Exterior Basement Door, 6'x7' <i>Using 3/4" Material</i>	\$190	\$215

## EXHIBIT B



A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING THE  
CODE ENFORCEMENT ABATEMENT FEE SCHEDULE

=====

WHEREAS, the Lodi Municipal Code requires the City Council, by Resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

WHEREAS, as part of the Code Enforcement function in eliminating blight, nuisances, substandard and dangerous building conditions, the Community Development Community Improvement Division issues orders requiring the board-up and securing of vacant structures as well as the removal and clean up of garbage, junk and debris from yard areas; and

WHEREAS, vacant, unsecured structures are required to be boarded up within one to ten days, depending on the severity of the hazardous condition; and

WHEREAS, currently, in the event that the structure is not secured or the yards are not cleaned voluntarily within the required time-frame, the bid process is initiated in order to allow the City to have the work done and have costs billed to the property owner; and

WHEREAS, the City Council adopted Resolution 2000-235 on December 20, 2000 approving the Abatement Fee Schedule; and

WHEREAS, due to rising costs for materials, staff now recommends increasing the Abatement Fee Schedule as shown on Exhibit A attached hereto; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds as follows:

1. That the increase in the Abatement Fee Schedule is hereby approved as shown on Exhibit A attached and made a part hereof; and
2. All resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and
3. This resolution shall be published one time in the Lodi News Sentinel, a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect immediately upon its adoption.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

**EXHIBIT A**

CITY OF LODI  
COMMUNITY DEVELOPMENT DEPARTMENT  
ABATEMENT FEE SCHEDULE FOR ROTATING CONTRACTOR LIST  
(April 2004)

ITEM #	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL PRICE
	<b>SECURING STRUCTURES</b>			
1.	Plywood Board-Up, Door, 4'x8'		\$80	
2.	Plywood Board-Up, Double Door, 8'x8'		\$170	
3.	Plywood Board-Up, Window, <2'6"x 4'		\$50	
4.	Plywood Board-Up, Window, <4'x4'		\$60	
5.	Plywood Board-Up, Window, <4'x6'		\$75	
6.	Plywood Board-Up, Window, <4'x8'		\$80	
7.	Plywood Board-Up, Window, <8'x8'		\$170	
8.	Plywood Board-Up, Crawl Space Opening		\$60	
9.	Plywood Board Up, Exterior Basement Door, 6'x7' <i>Using 3/4" Material</i>		\$215	
10.	Replace Single Car Garage Door		\$270	
11.	Replace Double Car Garage Door		\$535	
12.	Replace Sliding Glass Door, 6'		\$360	
13.	Replace Wood Basement Door, 6'x5'		\$185	
14.	Replace Front Double Wood Entry Doors		\$465	
15.	Replace Garage Pedestrian Door		\$155	
16.	Replace Under Floor Vents		\$30	
17.	Replace Attic Vents		\$35	
	<b>Securing Subtotal</b>			
	<b>PROPERTY CLEAN UPS</b>			
18.	Remove Garbage, Junk and Debris (hourly rate)	Hrs.	\$35	
19.	Remove Weeds and Shrubbery (hourly rate)	Hrs.	\$25	
	<b>Clean Up Subtotal</b>			
	<b>Total Amount</b>			

Comments by the public on non-agenda items

**THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.**

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Continue public hearing to April 21, 2004, to consider an appeal received from Key Advertising, Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign and a Variance to double the maximum allowable sign area from 480 square feet to 960 square feet to be located at 1251 South Beckman Road

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Associate Planner

---

**RECOMMENDED ACTION:** Based upon the applicant's request for a continuance (see attached), staff recommends that the City Council continue the public hearing to their next scheduled meeting, which is on April 21, 2004.

**FUNDING:** None

---

Konradt Bartlam  
Community Development Director

KB/MM/lw

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager

Mar 29 04 09:44a G-REM, Inc./Key Management 209-333-3445

p.2

# **G-REM, INC.**

**DEVELOPMENT, CONSTRUCTION, MANAGEMENT**

---

---

March 29, 2004

**SENT via FAX ONLY**

Ms. Susan Blackston  
City Clerk  
City of Lodi  
FAX 209 333 6807

**RE: Request for Continuance – Pixley Park Land Exchange & Pylon Sign  
Appeal, (2 items)**

Dear Susan:

This letter shall serve as our request to continue the 2 items described above until the next available Council meeting.

Should you have any questions, please contact me at 333 4565.

Sincerely,



Dale N. Gillespie

cc: Mr. Rad Bartlam  
Mr. Wally Sandelin



## CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

### NOTICE OF PUBLIC HEARING

Date: April 7, 2004

Time: 7:00 p.m.

For information regarding this notice please contact:

**Susan J. Blackston**  
City Clerk  
Telephone: (209) 333-6702

**EXHIBIT A**

### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, April 7, 2004** at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) to consider an appeal received from Key Advertising Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign, and a Variance to double the maximum allowable sign area from 480 square-feet to 960 square -feet to be located at 1251 South Beckman Road

Information regarding this item may be obtained in the office of the Community Development Department, 221 West Pine Street, Lodi, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the Public Hearing.

By Order of the Lodi City Council:

Susan J. Blackston  
City Clerk

Dated: March 18, 2004

Approved as to form:

D. Stephen Schwabauer  
Interim City Attorney



*Please immediately confirm receipt  
of this fax by calling 333-6702*

CITY OF LODI  
P. O. BOX 3006  
LODI, CALIFORNIA 95241-1910

### ADVERTISING INSTRUCTIONS

**SUBJECT:** PUBLIC HEARING TO CONSIDER AN APPEAL RECEIVED FROM KEY ADVERTISING INC., REGARDING THE PLANNING COMMISSION'S DECISION TO DENY THE REQUEST OF KEY ADVERTISING FOR A USE PERMIT TO ALLOW A 75-FOOT-HIGH ELECTRIC DISPLAY SIGN, AND A VARIANCE TO DOUBLE THE MAXIMUM ALLOWABLE SIGN AREA FROM 480 SQUARE FEET UP TO 960 SQUARE FEET TO BE LOCATED AT 1251 SOUTH BECKMAN ROAD

### **LEGAL AD**

**PUBLISH DATE:** SATURDAY, MARCH 20, 2004


**TEAR SHEETS WANTED:** Three (3) please

**SEND AFFIDAVIT AND BILL TO:**

SUSAN BLACKSTON, CITY CLERK  
City of Lodi  
P.O. Box 3006  
Lodi, CA 95241-1910

**DATED:** THURSDAY, MARCH 18, 2004

**ORDERED BY:**

  
PATRICIA OCHOA  
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC  
DEPUTY CITY CLERK

JENNIFER M. PERRIN, CMC  
DEPUTY CITY CLERK

**Verify Appearance of this Legal in the Newspaper – Copy to File**

**PLEASE FAX OVER PROOF OF ADVERTISEMENT. THANK YOU!!**

LNS Faxed to the Sentinel at 369-1084 at 2:25 (time) on 3/18/04 (date) 2 (pages)  
Dora Phoned to confirm receipt of all pages at 2:41 (time) Jac PO Tricia  Jen (initials)

APN;OWNER;ADDRESS;CITY;STATE;ZIP

04925057;MCDONALDS CORPORATION ;4502 GEORGETOWN PL #202 ;STOCKTON ;CA;95207

04925075;GFLIP III LTD PTP LP ;PO BOX 1210 ;LODI ;CA;95241

04925059;FREDAN PROPERTIES LLC ;1300 W LODI AVE SUITE K ;LODI ;CA;95242

06102015;HOFFMAN, ARTHUR & LORENE TR ET;2418 E WOODBRIDGE RD ;ACAMPO  
;CA;95220

06102002;BECKMAN, WILLIAM TROY TR ETAL;PO BOX 1537 ;LODI ;CA;95241

EXHIBIT B





## DECLARATION OF MAILING

**PUBLIC HEARING TO CONSIDER AN APPEAL RECEIVED FROM KEY ADVERTISING INC., REGARDING THE PLANNING COMMISSION'S DECISION TO THE DENY THE REQUEST OF KEY ADVERTISING FOR A USE PERMIT TO ALLOW A 75-FOOT HIGH ELECTRONIC DISPLAY SIGN, AND A VARIANCE TO DOUBLE THE MAXIMUM ALLOWABLE SIGN AREA FROM 480 SQUARE-FEET TO 960 SQUARE-FEET TO BE LOCATED AT 1251 SOUTH BECKMAN ROAD**

On March 18, 2004, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider the appeal received from Key Advertising Inc., regarding the Planning Commission's decision to deny the request of Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign, and a Variance to double the maximum allowable sign area from 480 square-feet to 960 square-feet to be located at 1251 South Beckman Road, marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 18, 2004, at Lodi, California.


ORDERED BY:

**SUSAN BLACKSTON  
CITY CLERK, CITY OF LODI**

ORDERED BY:

\_\_\_\_\_  
JACQUELINE L. TAYLOR  
DEPUTY CITY CLERK

\_\_\_\_\_  
JENNIFER M. PERRIN  
DEPUTY CITY CLERK

  
\_\_\_\_\_  
PATRICIA OCHOA  
ADMINISTRATIVE CLERK



## DECLARATION OF POSTING

**PUBLIC HEARING TO CONSIDER AN APPEAL RECEIVED FROM KEY  
ADVERTISING INC., REGARDING THE PLANNING COMMISSION'S  
DECISION TO DENY THE REQUEST OF KEY ADVERTISING FOR A USE  
PERMIT TO ALLOW A 75-FOOT-HIGH ELECTRONIC DISPLAY SIGN, AND A  
VARIANCE TO DOUBLE THE MAXIMUM ALLOWABLE SIGN AREA FROM  
480 SQUARE-FEET UP TO 960 SQUARE-FEET TO BE LOCATED AT 1251  
SOUTH BECKMAN ROAD**

On Thursday, March 18, 2004 in the City of Lodi, San Joaquin County, California, a copy of a Notice of Public Hearing to consider an appeal received from Key Advertising for a Use Permit to allow a 75-foot-high electronic display sign, and a Variance to double the maximum allowable sign area from 480 square-feet to 960 square-feet to be located at 1251 South Beckman Road ( attached hereto, marked Exhibit "A"), was posted at the following four locations:

Lodi Public Library  
Lodi City Clerk's Office  
Lodi City Hall Lobby  
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 18, 2004, at Lodi, California.

ORDERED BY:

**SUSAN J. BLACKSTON  
CITY CLERK**

\_\_\_\_\_  
Jacqueline L. Taylor, CMC  
Deputy City Clerk

A handwritten signature in cursive script, reading "Patricia Ochoa".

\_\_\_\_\_  
Patricia Ochoa  
Administrative Clerk

\_\_\_\_\_  
Jennifer M. Perrin, CMC  
Deputy City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Continue Public Hearing to April 21, 2004, to Consider Redesign Concept for C-Basin (Pixley Park) and the Exchange of Properties with GREM, Inc., to Allow the Relocation of C-Basin

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Public Works Director

---

**RECOMMENDED ACTION:** That the City Council continue the public hearing to consider the redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow the relocation of C-Basin (Pixley Park) to April 21, 2004.

**BACKGROUND INFORMATION:** Mr. Dale Gillespie has requested that the public hearing be continued to a later date, and City staff concurs with this request.

**FUNDING:** Not applicable.

---

Richard C. Prima, Jr.  
Public Works Director

Prepared by F. Wally Sandelin, City Engineer  
RCP/FWS/pmf  
cc: Interim City Attorney

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



RECEIVED  
2004 MAR 29 AM 10:15  
CITY CLERK  
CITY OF LODI

March 29, 2004

SENT via FAX ONLY

Ms. Susan Blackston  
City Clerk  
City of Lodi  
FAX 209 333 6807

**RE: Request for Continuance – Pixley Park Land Exchange & Pylon Sign  
Appeal, (2 items)**

Dear Susan:

This letter shall serve as our request to continue the 2 items described above until the next available Council meeting.

Should you have any questions, please contact me at 333 4565.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dale N. Gillespie', is written over a horizontal line.

Dale N. Gillespie

cc: Mr. Rad Bartlam  
Mr. Wally Sandelin

# NOTICE OF CONTINUED PUBLIC HEARING

## CITY COUNCIL

## CITY OF LODI

NOTICE IS HEREBY GIVEN that the March 17, 2004 public hearing of the City Council of the City of Lodi to consider redesign concept for C-Basin (Pixley Park) and the exchange of properties with GREM, Inc., to allow relocation of C-Basin has been continued to **April 7, 2004 at the hour of 7:00 p.m.** in the Council Chamber, Carnegie Forum, 305 W. Pine Street, Lodi, California.

Posted March 18, 2004

A handwritten signature in black ink, appearing to read "Susan J. Blackston", written over a horizontal line.

SUSAN J. BLACKSTON  
CITY CLERK  
Of the City of Lodi



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Denial of Verified Claim(s) against the City of Lodi

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Risk Management

---

**RECOMMENDED ACTION:** To approve by motion action, denial of the following verified Claim filed against the City of Lodi.

(A) Magellan Environmental, Inc.

DOL: 11/03-2/04

**BACKGROUND INFORMATION:** Following review of verified claims filed against the City of Lodi, Internal audit and Human Resources Staff, it is recommend the City deny the subject claim(s).

**FUNDING:** None Required

---

Kirk Evans, Risk Manager

Attachments

cc: Interim City Attorney

---

**APPROVED:** \_\_\_\_\_  
H. Dixon Flynn, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Updates from Mayor Hansen regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation and legal proceedings relative to the Environmental Abatement Program litigation

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Deputy City Manager

---

**RECOMMENDED ACTION:** That the City Council receive an update regarding the following issues: Barger & Wolen audit of Envision Law Group's billings; progress on Request for Proposals for special counsel to represent the City of Lodi in its Environmental Abatement Program litigation and legal proceedings relative to the Environmental Abatement Program litigation.

**BACKGROUND INFORMATION:** At the request of Mayor Hansen, this item is placed on the agenda to allow for a verbal update regarding the status of the above issues.

**FUNDING:** Not applicable

---

Janet S. Keeter  
Deputy City Manager

JSK/si

---

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Approval of Special Allocation for Expenses Incurred for moving and storing PCE/TCE Litigation Files and Kronick, Moskovitz, Tiedemann & Girard Invoice for Services Rendered February 2004

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Interim City Attorney

**RECOMMENDED ACTION:** That the City Council approve a Special Allocation in the amount of \$117,941.58 to cover expenses incurred for moving and storing PCE/TCE Litigation Files (\$17,005), and Kronick, Moskovitz, Tiedemann & Girard invoice for services for February, 2004 (\$100,936.58).

**BACKGROUND INFORMATION:** As you will recall, with the termination of the City's outside Environmental Counsel, Envision Law Group, it was necessary to have the 200 Bankers Boxes of litigation files moved from Envisions Lafayette office to the City of Lodi.

The files were temporarily stored in the Document Depository (with approximately 1300 other boxes already located there) until such time as Envision terminated the Document Depository lease. The files were then relocated to the basement of the old Public Safety Building once the Police Department moved into their new quarters. Since time was of the essence to move, organize and review the files in order to meet ongoing deadlines, the Kronick, Moskovitz, Tiedemann & Girard firm assisted the City by locating a company to move the boxes of files, keeping them in careful order. The vast number of files encompasses at least six rooms.

The moving company, Cimarron of California performed the following work:

1)	1/29/04 - Picked up 200+ boxes from Envision Law Group, Lafayette and delivered to City of Lodi (this included five hours of down time as Envision would not allow entry).	\$ 2,889.00
2)	2/01/04 - Arranged boxes [in Depository hallway] in numerical order. (This work was done on a Sunday per Steve Schwabauer's request).	\$ 855.00
3)	2/09/04 – Relocate 1500 boxes plus contents and shelving from 210 W. Pine Street to 210 Elm Street, Lodi.	<u>\$ 11,532.00</u>
TOTAL		\$ 15,276.00

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager



Additionally, during the time between the lapse of the Depository lease and moving of the files to the Public Safety Building, the City is being charged \$133.00 rental fee per day by the owner, Mr. Fred Heagarty.

Document Depository Rental fee covering time period January 30, 2004 through February 11, 2004, representing 13 days.	\$ 1,729.00
---	-------------

Invoice for Services Rendered for February, 2004 by Kronick, Moskovitz, Tiedemann & Girard.	\$100,936.58
---	--------------

**FUNDING:** Water Fund 183453.7323

---

Vicky McAthie, Finance Director

---

D. Stephen Schwabauer  
Interim City Attorney

DSS/pn

Attachments



3132 Dwight Road, Suite 400  
 Elk Grove, CA 95758  
 (916) 391-4480  
 (916) 391-8414 FAX  
 Contractor's Lic. # 819181 (D34)

BILL TO:  
 KRONICK MOSKOVITZ  
 ATTN: ACCTS PAYABLE  
 400 CAPITOL MALL, 27 FLR  
 SACRAMENTO, CA 95814-4417



**MilliCare**  
 Advanced Commercial Carpet,  
 Panel and Upholstery Care

DATE: 01/30/04  
 INVOICE #: 46683  
 CUSTOMER #: PER ELAINE  
 PROJECT #: 38301

SERVICE FOR:  
 ENVISION LAW GROUP  
 DESCO PLAZA II  
 3717 MOUNT DIABLE BLVD. #100  
 LAFAYETTE, CA 94549

**2% 10 / Net 15**

Due on or before 02/14/04

DATE	DESCRIPTION	AMOUNT
1/29/04	PICKUP & DELIVERY AS PER ATTACHED	\$ 2889.00

87116 Bill to Lodi  
 11233.1  
 per Lacion  
 Henderson

EDV

TAX	\$ 0.00
<b>TOTAL REMITTANCE DUE</b>	<b>\$ 2889.00</b>

WE NOW ACCEPT MASTERCARD, VISA, AMERICAN EXPRESS, AND DISCOVER.

THANK YOU FOR USING CIMARRON!  
 WE APPRECIATE YOUR BUSINESS!

CIMARRON OF CALIFORNIA  
 432 ROVANA CIRCLE, #1  
 SACRAMENTO, CA 95828  
 (916) 387-8093 PHONE  
 (916) 387-8163 FAX  
 A # 109139

Project #: 38301  
 BT: TM  
 J.S.T.: 021400 C10300  
 STOP: 1 TIME: 10:00  
 S/W: Elaine  
 RACK LOC:

CUSTOMER: KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
 400 CAPITOL MALL, 27TH FL.  
 SACRAMENTO, CA 95814-4417

CONSIGNEE: ENVISION LAW GROUP

DESCO PLAZA II

3717 MOUNT DIABLO BLVD, STE. #100

LAFAYETTE, CA 94549

CONTACT: ELAINE SAVAGE

CONTACT: LACIAN HENDERSON

PHONE #: (916) 321-4528

PHONE #: (925) 962-6900 - CELL (916) 300-5685

DATE: 1/29/04 CUST. P.O. #: VERBAL ELAINE

XWO:

ORD	#REC	#B/O	PRS/ PRF	Date of Service	ITEM DESCRIPTION
1	1	0		1/29/04	Pick up (100 - 200) Boxes from above and deliver to address below.
1	1	0			210 West Pine, Lodi, Peggy Nicolini. (209) 333-6701. Call 1/2 hr prior to arrival.

Unable to start until 3:00 pm

Job Complete: \_\_\_\_\_ Incomplete - See Punchlist: \_\_\_\_\_  
 Cust. Init. \_\_\_\_\_ Init. \_\_\_\_\_

Comments: Please call Lacion Henderson 1/2 hr prior to arrival. Cell # (916) 300-5685.

Wholesale collection site 27 wheels & cardboard tubes. in sac.

Initiation of work constitutes acceptance of Cimarron's pricing and all of their normal terms and conditions.

SERVICE AGENT George Havens

CUSTOMER SIGN \_\_\_\_\_

DATE: 1/29/04

CUSTOMER DATE 1-29-04

We now accept MasterCard, VISA, American Express, and Discover.

OFFICE USE

D \_\_\_\_\_ P \_\_\_\_\_ W \_\_\_\_\_ I \_\_\_\_\_ S \_\_\_\_\_ SP \_\_\_\_\_ WC \_\_\_\_\_ IR \_\_\_\_\_ PRF# \_\_\_\_\_

Thank you for using Cimarron - We appreciate your business!



3132 Dwight Road, Suite 400  
Elk Grove, CA 95758  
(916) 391-4480  
(916) 391-8414 FAX  
Contractor's Lic. # 819181 (D34)



**MilliCare**  
Advanced Commercial Carpet,  
Panel and Upholstery Care

DATE: 02/10/04

INVOICE #: 46783

CUSTOMER #: PER ELAINE

PROJECT #: 38331

## BILL TO:

KRONICK MOSKOVITZ  
ATTN: ACCTS PAYABLE  
400 CAPITOL MALL, 27 FLR  
SACRAMENTO, CA 95814-4417

## SERVICE FOR:

210 W. PINE  
LODI, CA

**Net 15**

Due on or before 02/25/04

DATE	DESCRIPTION	AMOUNT
2/1/04	SERVICE AS PER ATTACHED	\$ 855.00

877852

Bill to Lodi  
H233.1  
*[Signature]*

*[Handwritten mark]*

TAX \$ 0.00

TOTAL REMITTANCE DUE \$ 855.00

WE NOW ACCEPT MASTERCARD, VISA, AMERICAN EXPRESS, AND DISCOVER.

THANK YOU FOR USING CIMARRON!  
WE APPRECIATE YOUR BUSINESS!

CIMARRON OF CALIFORNIA  
 3432 BOVANA CIRCLE, #1  
 SACRAMENTO, CA 95828  
 (916) 387-8093 PHONE  
 (916) 387-8163 FAX  
 CA # 109139

Project #: 38331  
 BT: TM  
 J.S.T.: 02-03-05  
 STOP: 1 TIME: 1:00  
 S/W: Jennifer  
 RACK LOC:

CUSTOMER: KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
 400 CAPITOL MALL, 27TH FL.  
 SACRAMENTO, CA 95814-4417

CONSIGNEE:  
 210 W. PINE  
 LODI, CA

CONTACT: ELAINE SAVAGE  
 PHONE #: (916) 321-4528  
 DATE: 2/1/04 CUST. P.O.#: VERBAL ELAINE

CONTACT: JENNIFER  
 PHONE #: (916) 402-1297 Cell

XWO:

#ORD	#REC	#B/O	PRS/PRF	Date of Service	ITEM DESCRIPTION
1	1	2		2/1/04	Arrange boxes in numerical order per Jennifer's direction.
1	1	2			Pick up (27) empty tubs and (27) 4 wheelers left on Thurs.

Job Complete: ☒ Incomplete - See Punchlist: ☐

Comments: Great Job!

Initiation of work constitutes acceptance of Cimarron's pricing and all of their normal terms and conditions.

SERVICE AGENT Dave Reyes

CUSTOMER SIGN *[Signature]*

DATE: 2/1/04

CUSTOMER DATE 2/1/04

We now accept MasterCard, VISA, American Express, and Discover.

OFFICE USE

D \_\_\_\_\_ P ☒ W \_\_\_\_\_ I \_\_\_\_\_ S ☒ SP \_\_\_\_\_ WC \_\_\_\_\_ IR \_\_\_\_\_ PRF# \_\_\_\_\_

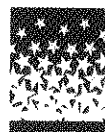
Thank you for using Cimarron - We appreciate your business!



3132 Dwight Road, Suite 400  
Elk Grove, CA 95758  
(916) 391-4480  
(916) 391-8414 FAX  
Contractor's Lic. # 819181 (D34)

BILL TO:  
KRONICK MOSKOVITZ  
ATTN: ACCTS PAYABLE  
400 CAPITOL MALL, 27 FLR  
SACRAMENTO, CA 95814-4417

FEB 23 2004  
CITY ATTORNEY'S OFFICE



**MilliCare**  
Advanced Commercial Carpet,  
Panel and Upholstery Care

DATE: 02/13/04  
INVOICE #: 46817  
CUSTOMER #: PER LACIAN  
PROJECT #: 38396

SERVICE FOR:  
LODI STORAGE  
210 W. PINE STREET  
LODI, CA

**2% 10 / Net 15**

*Due on or before 02/28/04*

DATE	DESCRIPTION	AMOUNT
2/11/04	SERVICE AS PER ATTACHED	\$ 11532.00

87909

OK for Payment	
ACCOUNT	
DATE	AUTHORIZED
2/23/04	

TAX	\$ 0.00
<b>TOTAL REMITTANCE DUE</b>	<b>\$ 11532.00</b>

WE NOW ACCEPT MASTERCARD, VISA, AMERICAN EXPRESS, AND DISCOVER.

THANK YOU FOR USING CIMARRON!  
WE APPRECIATE YOUR BUSINESS!

CIMARRON OF CALIFORNIA  
8432 ROVANA CIRCLE, #1  
SACRAMENTO, CA 95828  
(916) 387-8093 PHONE  
(916) 387-8163 FAX  
CA # 109139

Project #: 38396  
BT: TM  
J.S.T.:  
STOP: 1 TIME: 7:00  
S/W: Lacion  
RACK LOC:

CUSTOMER: KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
400 CAPITOL MALL, 27TH FL.  
SACRAMENTO, CA 95814-4417

CONSIGNEE: LODI STORGE  
210 W. PINE ST. (Document Depository)  
LODI, CA

CONTACT: LACIAN HENDERSON

CONTACT: LACIAN

PHONE #:

PHONE #:

DATE: 2/9/04 CUST P.O.# VERBAL LACIAN

XWO:


#ORD	#REC	#B/O	PRS/ PRF	Date of Service	ITEM DESCRIPTION
------	------	------	-------------	--------------------	------------------

1	1	0		2/9/04	Relocate contents and shelving to 210 Elm St Lodi (Old Police Bldg)
---	---	---	--	--------	---

Job Complete: \_\_\_\_\_ Incomplete - See Punchlist: \_\_\_\_\_  
Cust. Init. \_\_\_\_\_ Init. \_\_\_\_\_

Comments:

Initiation of work constitutes acceptance of Cimarron's pricing and all of their normal terms and conditions.

SERVICE AGENT Henry Ochoa

CUSTOMER SIGN *PL Lacion*

DATE: 2/9/04

CUSTOMER DATE 2-11-04

We now accept MasterCard, VISA, American Express, and Discover.

OFFICE USE

D ☒ P ☒ W \_\_\_\_\_ I \_\_\_\_\_ S ☒ SP \_\_\_\_\_ WC \_\_\_\_\_ IR \_\_\_\_\_ PRF# \_\_\_\_\_

Thank you for using Cimarron - We appreciate your business!

hmtl - Code(11532)mon 2/9 - Henry -

$$8 \times '81 = '648$$

$$25 \times '114 = '285$$

$$(2) \text{ m} - 16 \times '52 = '832$$

$$2 \times '78 = '156$$

'2,337

$$(1) \text{ m} - 8 \times '52 = '416$$

Tue 2/10 - Henry -

$$8 \times '81 = '648$$

$$4 \times '114 = '456$$

$$-75 \times '147 = '11025$$

$$(3) \text{ m} - 24 \times '52 = '1,248$$

$$10.5 \times '78 = '819$$

'4,295<sup>25</sup>

$$(1) \text{ m} - 8 \times '52 = '416$$

$$1 \times '78 = '78$$

$$(1) \text{ m} - 3.5 \times '52 = '182$$

$$(1) \text{ m} - 6.5 \times '52 = '338$$



Wed 4/11

$$\begin{aligned}
 \text{Weng} &= 8 \times \$81 = \$648 \\
 &4 \times \$114 = \$456 \\
 &-75 \times \$147 = -\$11025
 \end{aligned}$$

\$4,899.25

$$\begin{aligned}
 (5) \text{ men} &= 40 \times \$52 = \$2,080 \\
 16-25 \times \$78 &= \$1,267.50
 \end{aligned}$$

$$(1) \text{ man} = 6.5 \text{ hr} \times \$52 = \$338$$

$$\begin{aligned}
 \text{Total} &= \$2,337 \quad \checkmark \\
 &4,295.25 \quad \checkmark \\
 &4,899.25 \quad \checkmark
 \end{aligned}$$

\$11,532.00

088

## MULLEN, SULLIVAN &amp; NEWTON, LLP

THOMAS J. NEWTON  
CRAIG RASMUSSEN  
STEPHEN C. SNIDER  
JAMES V. DEMERA III  
BENJAMIN C. McDONALD

ATTORNEYS AT LAW  
1111 WEST TOKAY STREET  
P. O. BOX 560  
LODI, CALIFORNIA 95241-0560  
(209) 334-5144  
FAX (209) 333-1034

OF COUNSEL  
ROBERT H. MULLEN  
C. M. "BOB" SULLIVAN

February 3, 2004

Stephen D. Schwabauer  
City Attorney  
221 W. Pine St.  
Lodi, CA. 95240

(Sent Via Fax (209) 333-6807 )

RE: Heagarty vs. Envision

Dear Steve:

After our discussions regarding the City's occupancy of the 210 West Pine Street premises, I had a discussion with my client and found out that I misinterpreted something that he told me.

Fred indicates to me that he never meant to indicate that the City could have free use of the property. He would like to be compensated at the rate of \$4,000.00 per month for each day of the City's occupancy. This translates into roughly \$133.00 per day of actual occupancy. If this is agreeable, please let me know and I will prepare a very short Memorandum of Understanding to protect both of our interests.

If you have any questions, please call.

Very truly yours,

MULLEN, SULLIVAN &amp; NEWTON, LLP

by

THOMAS J. NEWTON

TJN:sw

cc: Dennis Callahan  
Fred Heagarty

Copy given  
to Dennis  
2/4/04  
P



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt a resolution approving an agreement between the City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pools at Twin Arbor Athletic Club Facilities for the period May 31, 2004 to July 25, 2004

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Parks and Recreation Director

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**RECOMMENDED ACTION:** That the City Council adopt a resolution approving an agreement for use of Twin Arbor Athletic Club pool facilities by the Summer Swim League program.

**BACKGROUND INFORMATION:** The Parks and Recreation Department currently provides a summer swim league program to over 600 children, up from 500 a few years ago. This program continues to grow, however, there have been no additional facilities available to expand the program.

Staff has been in discussions with Twin Arbor Athletic Club for several years to gain access to their pools in order to expand the program. For a fourth year, staff was successful in gaining access, thereby allowing for last years team of 100+ swimmers to participate in the Summer Swim League. Staff recommends approving the agreement, which will allow the swimming pools at Twin Arbor to be used for meets and a team comprised of Twin Arbor members to participate in the league. Last year this same agreement was utilized for the program.

**FUNDING:** None

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Tony Goehring  
Parks and Recreation Director

TG:tl

cc: City Attorney

---

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

Memorandum of Understanding  
(Summer Swim League)

THIS Memorandum of Understanding ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2004, by Spare Time Incorporated d.b.a. Twin Arbor Athletic Club, ("TAAC") and THE CITY OF LODI, acting by and through its Parks and Recreation Department ("City").

Background

- A. City operates an eight-week summer swim league at the City owned Enze Pool, Lodi High School Pool and Tokay High School Pool. Currently, the City has six teams, each comprised of over 100 participants, TAAC also operates swimming programs at its privately owned pool facilities at 2040 W. Cochran Rd, Lodi and 1900 S Hutchins Rd, Lodi.
- B. TAAC desires to organize a team to participate in the summer swim league again. City is willing to permit TAAC to do so on a trial basis. However, in order to accommodate the sixth team, City requires the use of one or both of TAAC's pool facilities.
- C. Accordingly, the parties enter into this Agreement on the terms and conditions set forth below.

Agreement

In consideration of their mutual covenants, the Parties agree as follows:

1. Participation. TAAC and City agree that TAAC will establish a sixth team named the "Dolphins" comprised of the members of its club to participate in the City's summer swim league.
2. Administration. Generally, the Dolphins team and its members will be treated identically to the City teams, and the Dolphins will practice at TAAC's facilities. Dolphins team members will register with and pay the City's Parks and Recreation Program. City will pay the Dolphins coach the same stipend paid to the City coaches. City shall have the right to oversee and supervise the Dolphin's coach and program, including all appropriate background checks of Dolphin's staff (whether paid or volunteer) and monitoring practices and swim meets to ensure compliance with all applicable laws, regulations, and City standards. TAAC shall cooperate with City's efforts to perform background checks and monitoring.
3. Fees/Recruiting Prohibited. No fees, other than TAAC's standard membership fee, shall be charged to any Dolphin team member. Members must be an active member of TAAC as of April 1<sup>st</sup> of the current year. However, TAAC like other teams may accept donations and have fundraisers to solicit sponsorships. TAAC shall not engage in any efforts to recruit memberships during swim meets. TAAC shall not recruit members of City teams and TAAC members who wish to retain their affiliation with a City team must not be pressured to join the

TAAC team. However, TAAC will be permitted to inform its members that it is establishing a team to compete in the City's summer swim league and that TAAC members may join TAAC's team by signing up through the City's Parks and Recreation Department subject to being an active member of TAAC as of April 1<sup>st</sup> of the current year.

4. Use of Facilities. During the term of this Agreement, TAAC agrees to allow the use of its facilities, including but not limited to the showers, dressing areas, bathrooms, and spectator areas for Dolphins practice and for swim meets between any teams in the summer swim league from 10:30 a.m. to 3:00 p.m. on Saturdays. No fees shall be charged to (1) the City for use TAAC's facilities; or (2) any child or spectator for any purpose, including but not limited to entry fees, or shower fees, during the swim meets. TAAC shall have the right to designate which of its pool facilities will be used for practices on whatever notice it deems appropriate and shall also have the right to designate which of its Lodi pool facilities will be used for swim meets on at least 30 days written notice to City, as long as practices are consistent with above times. The meets held at TAAC pools will involve the Dolphins and a City team. At no time will two City teams use TAAC pool for swim meets.

5. Term. The term of this Agreement shall be from May 31<sup>st</sup>, 2004 to July 25<sup>th</sup>, 2004 unless otherwise terminated as provided herein.

6. Maintenance. TAAC shall, at its own expense, maintain its premises and any buildings and or equipment on or attached to the premises in a safe condition, in good repair and in a manner suitable to City. City shall be entitled to inspect TAAC's pool facilities upon demand to ensure compliance with this paragraph.

7. Utilities. TAAC shall provide utility service to the premises at its sole cost and expense.

8. Attorney Fees. In any action between the parties arising out of or related to this contract, the prevailing party shall be entitled to all expenses incurred therefor, including reasonable attorney fees.

9. Optional Termination. Either party may terminate this Agreement in writing upon at least 48 hours prior written notice. In the event of an early termination, the City, in its sole discretion, will determine which one of the following options to give to the entire Dolphins team:

- a. Join another of the five teams in the Summer Swim League;
- b. Continue on the Dolphins team for the remainder of the season with a coach to be supplied by the City without the use of the TAAC facilities; or
- c. Terminate their participation in the league and receive a pro-rated refund of the fees paid to the Parks and Recreation Department.

10. Indemnity and Insurance.

a. Indemnification by City: Except to the extent caused by the negligence or intentional misconduct of TAAC or of any agent, servant or employee of TAAC, City ("Indemnitor") shall, at its sole cost and expense, indemnify and hold harmless TAAC and all associated,

affiliated, allied and subsidiary entities of TAAC, now existing or hereinafter created, and their respective officers, boards, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of City, its personnel, employees, agents, contractors or subcontractors on the Premises, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, or any other right of any person, firm or corporation, to the extent arising out of or resulting from the operation and/or maintenance of the summer swim league or City's failure to comply with any applicable federal, state or local statute, ordinance or regulation.

b. Indemnification by TAAC: Except to the extent caused by the negligence or intentional misconduct of City or of any agent, servant or employee of City, TAAC ("Indemnitor") shall, at its sole cost and expense, indemnify and hold harmless City and all associated, affiliated, allied and subsidiary entities of City, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of TAAC, its personnel, employees, agents, contractors or subcontractors on the Premises, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, or any other right of any person, firm or corporation.

c. Defense of Indemnitees: In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Indemnitor shall, upon reasonable prior written notice from any of the Indemnitees, at Indemnitor's sole cost and expense, resist and defend the same with legal counsel mutually selected by the parties; provided however, that the parties must not admit liability in any such matter without written consent, which consent must not be unreasonably withheld, conditioned or delayed, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without prior written consent. The indemnifying party's duty to defend shall begin upon receipt of a written notice identifying with specificity the allegations that give rise to this duty to defend and shall be co-extensive with the indemnifying party's indemnification obligation.

d. Notice, Cooperation and Expenses: Each party must give the other prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing herein shall be deemed to prevent either party from cooperating with the other and participating in the defense of any litigation by its own counsel.

However, Indemnitor shall pay all reasonable expenses incurred by Indemnitees in response to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as reasonable attorney fees and shall also include the reasonable value of any services rendered by Indemnitees' attorney, and the actual reasonable expenses of Indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnitees in connection with such suits, actions-or proceedings but shall not include attorneys' fees for services that are unnecessarily duplicative of services provided Indemnitees by Indemnitor.

If Indemnitor requests Indemnitee to assist it in such defense, then Indemnitor shall pay all reasonable expenses incurred by Indemnitee in response thereto, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all reasonable out-of-pocket expenses such as attorney fees and shall also include the reasonable costs of any services rendered by Indemnitee's attorney, and the actual reasonable expenses of Indemnitee's agents, employees or expert witnesses, and disbursements and liabilities assumed by Indemnitee in connection with such suits, actions or proceedings.

e. Insurance: During the term of the Agreement, both parties must maintain, or cause to be maintained, in full force and effect and at their sole cost and expense, the following types and limits of insurance:

i. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance with minimum limits of One Hundred Thousand Dollars (\$100,000.00) for each accident.

iii. Comprehensive commercial general liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) as the combined single limit for each occurrence of bodily injury, personal injury and property damage.

iv. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a "claims made" basis.

v. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

f. Named Insureds: All policies, except for workers compensation policies, shall name City and all of their associated, affiliated, allied and subsidiary entities, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents and contractors, as their respective interests may appear as additional insureds (herein referred to as the "Additional Insureds"). Each policy which is to be endorsed to add Additional Insureds hereunder, shall contain cross-liability wording, as follows:

"In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the

same manner as if separate policies had been issued to each insured hereunder.”

g. Evidence of Insurance: TAAC shall file certificates of insurance for each insurance policy required to be obtained in compliance with this paragraph, along with written evidence of payment of required premiums with the City annually during the term of the Agreement. City shall immediately advise TAAC of any claim or litigation that may result in liability to TAAC. TAAC shall immediately advise City of any claim or litigation that may result in liability to City.

h. Cancellation of Policies of Insurance: TAAC’s insurance policies maintained pursuant to this Agreement shall contain the following endorsement:

“At least sixty (60) days prior written notice shall be given to City by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in this paragraph of the Agreement.”

i. Self-Insurance: The City’s insurance requirements set forth herein may be satisfied by a self insurance program that complies with all laws and regulations governing self insurance.

13. Notices. Except as otherwise provided for in this Agreement to the contrary, all notices, demands and other communications required or contemplated to be given under this Agreement shall be in writing and shall be delivered either by (i) postage prepaid, Returned Receipt Requested, Registered or Certified Mail, (ii) local or air courier messenger service, (iii) personal delivery, or (iv) facsimile addressed to the party or parties for whom intended at the address shown below or such other address as the intended recipient previously shall have designated by written notice from time to time (provided, however, notice of a change of address or facsimile number shall be effective only upon receipt):

If to City, to:	City of Lodi Parks & Recreation Dept. P. O. Box 3006 221 W. Pine Street Lodi, CA 94240 Fax # (209) 333-0162 Attn: Tony Goehring
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If to TAAC, to:	Twin Arbors Athletic Club
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14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

15. Non-Waiver. Failure of either party to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its rights here



under shall not waive such rights, but either party shall have the right to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity.

16. Miscellaneous.

a. TAAC and City represent that each, respectively, has full right, power, and authority to execute this Agreement.

b. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Agreement must be in writing and executed by both parties.

c. This Agreement shall be construed in accordance with the laws of the State of California.

This Agreement was executed as of the date first set forth above and effective as of the date set forth in introduction above.

\_\_\_\_\_  
H. Dixon Flynn  
City Manager

\_\_\_\_\_  
Dennis Kauffman  
General Manager

ATTEST:

\_\_\_\_\_  
Susan J. Blackston  
City Clerk

Dated: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
AGREEMENT BETWEEN THE CITY OF LODI AND SPARE TIME,  
INC., dba TWIN ARBOR ATHLETIC CLUB, FOR USE OF POOLS  
AT TWIN ARBOR ATHLETIC CLUB FACILITIES

=====

WHEREAS, the Parks and Recreation Department currently provides a summer swim league program to over 600 children; and

WHEREAS, this program continues to grow, with no additional facilities available to expand the program; and

WHEREAS, City staff has had discussions with Twin Arbor Athletic Club for several years to gain access to its pools in order to expand the program; and

WHEREAS, for a fourth year, staff was successful in gaining access, thereby allowing an additional 100+ swimmers to participate in the Summer Swim League; and

WHEREAS, staff therefore recommends that the City Council approve the agreement, which would allow the swimming pools at Twin Arbor Athletic Club to be used for meets and a team comprised of Twin Arbor members to participate in the league.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the agreement between the City of Lodi and Spare Time, Inc., dba Twin Arbor Athletic Club, for use of pools at Twin Arbor Athletic Club facilities for the period May 31, 2004 to July 25, 2004.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response, and A-1 Ambulance

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Michael E. Pretz, Fire Chief

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**RECOMMENDED ACTION:** That City Council adopts a resolution authorizing the City Manager to sign the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response and A-1 Ambulance. This Joint Venture Agreement will allow the City of Lodi, City of Stockton, American Medical Response and A-1 Ambulance to work together to prepare a response to a County Request for Proposal (RFP) to form an exclusive operating area for ambulance transportation.

**BACKGROUND INFORMATION:** At the January 27, 2004, shirtsleeve session Chief Pretz briefed Council on the status of the County's EMS and ambulance situation. The Chief subsequently has met with Stockton Fire Department, AMR and A-1 representatives to discuss a joint venture. The Fire Department has been directed by City Council to implement a paramedic program, pending budget approval. Council further directed the Fire Department to develop a public/private partnership for the provision of paramedic services and emergency medical transportation. The San Joaquin County Board of Supervisors has directed the County Emergency Medical Service Agency (SJCEMSA) to establish a process to re-design the ambulance transport criteria to allow exclusive operating areas (EOA) for ambulance zones 1,2,3,4, and 5. Further, the Board of Supervisors had directed the SJEMSA to prepare an amendment to the EMS Plan to establish EOA's for ambulance zones 1-5 for submission to the California Emergency Medical Services Authority (CA EMSA). The City of Lodi is in Zone 4.

Members of the City of Stockton Fire Department (SFD) and City of Lodi Fire Department (LFD) have held several discussions concerning the RFP process and an appropriate response to the RFP. Several areas were studied to determine the best approach to providing emergency medical services to our respective communities. These areas of concern are:

- Offsetting revenue for fire department first response
- Local control of ambulance resources
- On-going training and skill maintenance
- Response time compliance
- System resource capability

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

The City of Lodi Fire Department believes that the best way to respond to the ambulance re-design RFP is to form a contractual agreement with the City of Stockton, American Medical Response, and A-1 Ambulance Service. We believe this public/private partnership is the most stable and reliable method to continue providing emergency medical services to our community and will also be successful in bidding for the EOA contract.

In addition, staff has included a copy of the joint venture agreement. At this juncture, fire department staff is requesting Council approve the Joint Venture Agreement with our partners.

**FUNDING:** None

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Michael E. Pretz, Fire Chief

MEP/lh

Attachments

cc: D. Stephen Schwabauer, Interim City Attorney



## JOINT VENTURE AGREEMENT

The purpose of this document is to establish a Joint Venture Agreement between the City of Stockton, specifically the Stockton Fire Department (SFD), the City of Lodi, specifically the Lodi Fire Department (LFD), the City of Tracy, specifically the Tracy Fire Department (TFD), American Medical Response (AMR) Incorporated and A-One Ambulance Service (A-One) (Collectively referred to as the “Parties”). The terms of this framework will be refined into an operating agreement between the parties if the contract contemplated below is awarded to the parties.

1. The parties to this agreement will jointly submit a response to the San Joaquin County Request For Proposal (RFP) for the award of exclusive rights to emergency and non-emergency ambulance transportation within the areas known as Ambulance Zones 1, 2, 3, 4, and 5. The emergency and non-emergency transportation program is administered through the San Joaquin County Emergency Medical Services Agency (SJCEMSA). Except as set forth below, the response to the RFP will allow each signatory to provide non-emergency ambulance transportation within their own zones. AMR and A-One will be exclusively responsible for non-emergency interfacility transfers, critical care transfers, long distance transfers, scheduled wait and returns and HMO/PPO contractual agreements. The parties to this agreement may participate in transfers or calls arising out of the following non-emergency activities:
  - a. City sponsored events
  - b. Memorials
  - c. Emergency Department Requests
  - d. Requests from city employees and families
  - e. AMR/A-One Requests
  - f. Police and Fire Events
  - g. Sporting and entertainment events
2. The following parameters will be a part of the operating agreement between these parties in the final RFP proposal submitted by the joint venture;
  - a. The parties shall jointly recommend to the respective Fire Chiefs of each city the minimum number of dedicated 911 ambulances required to service that zone and the placement of ambulance stations throughout their respective areas currently known as Ambulance Zones 1, 2, 3, 4, and 5. The Fire Chiefs shall not unreasonably reject the recommendation of the parties.
  - b. The implementation schedule of 9-1-1 dedicated emergency ambulances specifically within the areas known as Ambulance Zones 1, 2 and 3 by SFD, AMR, and A-One will be as follows:
    - i. Initially and continuing, SFD and AMR shall each place into service an equal and even number of ALS ambulance units. A-One shall place one ALS ambulance unit in service.



- ii. Any additional increase in emergency ambulance resource needs shall be alternated between the three parties for implementation with SFD having the first right of refusal, AMR having the second and A-One having the third. The schedule for resource increases will continue through the life of the operating agreement between each provider. The order of the right of refusal will rotate between the parties to maintain parity. A-One ambulance service may expand to a total of two (2) ambulance units.
3. The number of non-emergency ambulance resources within the area known as Ambulance Zones 1, 2, 3, 4, and 5 will be determined by need.
4. The parties shall equally participate in the RFP process. If any party withdraws from the joint venture prior to an award of contract from the SJCEMSA or accepts an offer from another bidder to compete for the same service area, that party will be precluded from bidding in the San Joaquin County RFP for ambulance services.
5. Any disagreements arising from interpretation or implementation of the operating agreement between the parties shall be resolved by expedited mediation/arbitration before a mutually agreed-upon neutral party following efforts between parties to resolve the dispute informally.
6. It is understood and agreed that all of the fees and in-kind services paid or provided to the cities as part of this agreement shall be subject to the acknowledgement and approval of same in the RFP award, and in addition, that these payments and services shall be in accordance with all regulatory requirements and as otherwise permitted by the EMS contract.
7. All parties of this agreement agree to include as part of the RFP proposal ambulance transportation fee structure, Advanced Life Support (ALS) and Basic Life Support (BLS) first responder funding and regional emergency medical dispatch funding when a party of this agreement provides such services.
  - a. The ambulance provider stationed in the greater Lodi area will be responsible for first responder fees to the City of Lodi for the provision of that service. ALS first responder fees will cover the marginal cost to upgrade from the Emergency Medical Technician (EMT) level to ALS. BLS first responder fees will cover the marginal cost for the provision of EMT level service.
  - b. The ambulance provider stationed in the greater Tracy area will be responsible for first responder fees to the City of Tracy for the provision of that service. ALS first responder fees will cover the marginal cost to upgrade from the Emergency Medical Technician (EMT) level to ALS. BLS first responder fees will cover the marginal cost for the provision of EMT level service.
  - c. Ambulance provider(s) stationed in the greater Stockton area will be responsible for first responder fees to the City of Stockton for the provision of that service. ALS first responder fees will cover the marginal cost to upgrade from the Emergency Medical Technician (EMT) level to ALS. BLS first responder fees will cover the marginal cost for the provision of EMT level service.



- d. Marginal cost examples include, but are not limited to, the following:
    - i. ALS equipment for first responder engine/truck companies.
    - ii. ALS supplies as mandated by the EMSA.
    - iii. Additional compensation necessary to maintain paramedic and EMT status based on agreed upon amounts between the providers.
8. All emergency calls for service shall be turned over to the 911-dispatch center for Emergency Medical Dispatch (EMD) and the call will be assigned to the closest ambulance to the response area.
9. AMR, through its Northern California Training Institute (NCTI), will provide three (3) annual Paramedic tuition scholarships to employees of the parties of this agreement. In addition, AMR and SFD will assist LFD and TFD in the field internship phases of paramedic training.
10. If requested by LFD, AMR shall provide a Supplemental Transportation Resource (STAR) Unit to be manned by LFD personnel in accordance with an agreed upon criteria and reimbursement rate for unit activation.
  - a. AMR will initially provide a predetermined amount of ambulance units in service in the area known as Ambulance Zone 4. Should the Lodi City Council direct the LFD to provide emergency ambulance transportation, and if additional ambulance resources are needed after review, additional ambulance resources shall be alternated between LFD and AMR, with LFD having the first right of refusal. The schedule for resource increases will continue throughout the life of the operating agreement between each provider.
11. As may be desired by TFD, AMR shall provide a Supplemental Transportation Resource (STAR) Unit to be manned by TFD personnel in accordance with an agreed upon criteria and reimbursement rate for unit activation.
  - a. AMR will initially provide a predetermined amount of ambulance units in service in the area known as Ambulance Zone 5. Should the Tracy City Council direct the TFD to provide emergency ambulance transportation, and if additional ambulance resources are needed after review, additional ambulance resources shall be alternated between TFD and AMR, with TFD having the first right of refusal. The schedule of resource increases will continue throughout the life of the operating agreement between each provider.
12. All parties to this agreement will make their San Joaquin County continuing education classes available to all employees of the parties at not cost.
13. AMR, through its national network of vendors for medical supplies and durable medical equipment, will extend its pricing, to all parties of this agreement.
14. All parties to this agreement who provide ambulance transportation services, will restock first responder engine's medical supplies on a one-for-one exchange basis following each response.



**EXHIBIT A**

15. It is understood that this joint venture agreement takes effect upon signing the below signature line. This agreement will remain in effect (1) throughout the RFP process or until the “joint venture” is awarded the San Joaquin County contract for exclusive ambulance services, and then (2) for the duration of the San Joaquin County contract for exclusive ambulance services.

THE FOREGOING IS ACCEPTED:

\_\_\_\_\_  
DATED

\_\_\_\_\_  
AMERICAN MEDICAL RESPONSE, INC.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
MEDICAL TRANSPORTATION, INC.  
DBA A-ONE AMBULANCE SERVICE

\_\_\_\_\_  
DATED

\_\_\_\_\_  
CITY OF STOCKTON

\_\_\_\_\_  
DATED

\_\_\_\_\_  
CITY OF LODI

\_\_\_\_\_  
DATED

\_\_\_\_\_  
CITY OF TRACY



RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
JOINT VENTURE AGREEMENT BETWEEN THE CITY OF LODI,  
CITY OF STOCKTON, AMERICAN MEDICAL RESPONSE, AND  
A-1 AMBULANCE

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Joint Venture Agreement between the City of Lodi, City of Stockton, American Medical Response and A-1 Ambulance to work together to prepare a response to a County Request for Proposal to form an exclusive operating area for ambulance transportation; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized and directed to execute the Joint Venture Agreement on behalf of the City of Lodi.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

2004-\_\_\_\_\_



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Discussion and Appropriate Action Regarding 1) Placing a Ballot Measure Establishing Big-Box Size Limits on the November 2, 2004 Ballot 2) Establishing a Big-Box Size Limit for the Ballot Measure 3) Placing a Moratorium on Big-Box Retail Pending the Results of a November 2, 2004 Ballot Measure

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Deputy City Manager

**RECOMMENDED ACTION:** That Council discuss and take appropriate action regarding 1) Establishing a ballot measure regarding big-box size limits on the November 2, 2004 ballot 2) Establishing a big-box size limit for the proposed ballot measure 3) Consider a moratorium on big-box retail pending the results of a November 2, 2004 ballot measure.

**BACKGROUND INFORMATION:** During the March 17, 2004 City Council meeting, Council and the public debated the merits of restricting, by size, big-box retail development in the City of Lodi. The outcome of the discussion resulted in the suggestion that an agenda item be placed on the April 7, 2004 Council agenda with the specific issue of whether or not to allow the voters in Lodi to vote, via a November 2, 2004 ballot measure, on big-box retail size restrictions.

The Council will need to address the following issues as they relate to a proposed ballot measure:

1. Does Council want to take the big-box retail size restriction to the voters in November 2004?
2. If so, does Council want the size restriction to be established at no greater than 100,000 square feet?
3. If not, then what size?
4. Does Council want to impose a moratorium on big-box retail with a 100,000 square feet restriction until the voters take a position on the issue in November 2004?
5. If so, will this include remodel and expansions of existing retail stores?

Additionally, in order to place a ballot measure on the November 2, 2004 ballot, certain deadlines will need to be met by staff and the City Council. A resolution must be adopted by Council by July 21, 2004 and the staff report will be due to the City Clerk's Office by July 12, 2004.

Attached for Council's information are two documents: 1) Memorandum from the City Clerk's Office dated March 30, 2004 – Subject – Notice of Intention to Circulate Petition (Exhibit A) and 2) Voter Information Pamphlet Containing Measure L Contra Costa County (Exhibit B).

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

**FUNDING:** Not Applicable

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Janet S. Keeter  
Deputy City Manager

JSK/si  
Attachments



**MEMORANDUM**  
*Office of the Lodi City Clerk*

**TO:** City Council  
Interim City Attorney  
City Manager  
Community Development Director

**FROM:** Susan J. Blackston, City Clerk

**DATE:** March 30, 2004

**SUBJECT:** NOTICE OF INTENTION TO CIRCULATE PETITION

---

The attached Notice of Intention to Circulate Petition was filed in my office on March 30. Payment of the \$200 fee for processing an initiative petition was also received in accordance with Resolution 98-28.

Pursuant to California Elections Code Section 9203 (a) the City Attorney has 15 days from the date the Notice of Intention was filed with the City Clerk to prepare a ballot title and summary. The proponents will then publish the notice, title, and summary in Lodi News Sentinel, after which circulation of the petition can commence. Signatures from a minimum of 10% of the registered voters in the City of Lodi must sign the petition for it to qualify for certification by the San Joaquin Registrar of Voters. As was reported to the Secretary of State's Office on March 2, 2004, the total number of registered voters in the City of Lodi was 26,332 (10% = 2,634).

Ms. Susan Blackston  
City Clerk, City of Lodi  
221 W. Pine St.  
Lodi, CA 95240

RECEIVED

2004 MAR 30 AM 11:09

March 30, 2004

CITY CLERK  
CITY OF LODI

To the Honorable Clerk of the City of Lodi:

Below is our notice of intention to circulate an initiative petition. We request that a title and summary of it be prepared by the city attorney. We further petition you to submit this measure to the city council for adoption without change or submission to the voters of the City of Lodi at the earliest regular or special election for which it qualifies.

### NOTICE OF INTENTION TO CIRCULATE PETITION

NOTICE IS HEREBY GIVEN by the persons whose names appear hereon of their intention to circulate the petition within the City of Lodi. The petition proposes to amend the City of Lodi's zoning ordinance, Lodi Municipal Code, Title 17, to impose a maximum size limitation of 100,000 square feet upon all large-scale retail stores.

A statement of reason for the proposed action as contemplated is as follows: Lodi is confronted with increasingly larger scale retail stores and increasingly larger scale commercial development projects. These projects, and the likelihood of similarly large-scaled projects in the future, have raised concerns based on the hidden costs, economic, environmental, and social, these may have on the City of Lodi.

These include:

1. Costs of adverse traffic congestion and infrastructure,
2. Loss of trees, open space and farmland,
3. Displacement of locally owned small businesses,
4. Erosion or even elimination of Lodi's unique "small town atmosphere,"
5. Potential for urban blight,
6. Disruption of the City's policy to support the downtown as a retail and cultural area,
7. Pollution of air and water,
8. Increase in crime, and
9. Tendency for city services to cost more than income generated by tax revenue.

In order to protect the city from the adverse effects caused by the proliferation of large-scale retail stores and commercial projects, the measure provides as follows:

### **Lodi's Sensible Scale and Character Initiative**

The people of the City of Lodi do hereby ordain as follows:

#### **Section 1. Purpose and Findings.**

A. **Purpose.** The purpose of this Initiative is to protect and preserve the existing community character and fabric, and promote the continuation of neighborhood/community commercial centers and the downtown commercial center. Also, the purpose of this Initiative is to ensure that the purposes and principles set forth in the City of Lodi's General Plan are fully considered by establishing sensibly scaled retail development and maintenance of the City of Lodi's unique character. This action recognizes that large-scaled retail stores affecting the city shall be subject to a public vote.

B. **Findings.** The people of the City of Lodi find that regulating size and bulk of retail stores, through this initiative, promotes the welfare, economy, and quality of life of the residents of Lodi, based upon the following:

#### **1. Regulating Scale of Retail Stores Protects the Unique Character and Quality of Life in Lodi.**

An important component of the City of Lodi is maintaining its unique character. Lodi's small-town and rural qualities are a valuable trait of the town. Large-scale retail stores detract from the community's character and aesthetics. Large retail stores are usually located some distance away from residential neighborhoods because they require large sites, which are usually found only in zones outside of the downtown area. Large-scale retail often consists of long, plain facades, a sea of parking, and sparse landscaping.

The unique character of the City of Lodi and the quality of life enjoyed by city residents and visitors depend on the protection of the small-town and rural qualities. The protection of such attributes aids the continued viability of the city and brings mental and physical benefits from the broad protection of Lodi residents' quality of life.

#### **2. Strengthening Lodi's Economy.**

It is important to have sensible scale retail stores in order to continue to strengthen and sensibly develop Lodi's existing economy. Lodi has a number of shopping centers providing the community with merchandise and services. Large-scale retail stores affect existing shopping centers by causing the existing stores to go out of business, thus destabilizing the shopping centers, and leaving empty, boarded-up buildings, which increase crime and blight. The surrounding area loses the merchandise and services offered by the existing businesses. Sometimes a large-scale retail company will close down an existing store, and replace it with a superstore, which also results in a large, empty store.

#### **3. Ensuring Adequate Public Services for the City.**

There are negative impacts to not having sensibly scaled retail stores, including safety. Large-scale retail stores require significantly higher commitment of police, fire, and public safety resources compared to smaller neighborhood stores. Usually large-scale stores fail to provide provisions for the pedestrians entering the store.

It is often dangerous even to walk from the parking lot to the entrance of the store, with cars driving and maneuvering in the very large parking area. The larger stores usually involve longer trips and generate more traffic in a concentrated area, and thus require improved street capacity in their immediate neighborhoods. The elderly, handicapped, and poor may not have access to larger retail stores because they are located at greater distances away from their neighborhoods due to the large land acquisition requirements of the larger retail stores.

**C. Effect of Initiative.** To achieve the above-stated purposes, this Initiative would amend the City of Lodi's Ordinance to establish a limit on large-scale retail stores that exceed 100,000 square feet of gross floor area. Also it would require that any project proposal that exceeds 100,000 square feet of gross floor area be subject to a public vote for approval.

**Exhibits.** This Initiative does not have any exhibits attached but relies upon the design standards for large-scale stores recently adopted by the City.

## **Section 2. Zoning Ordinance Amendments.**

Whereas, the Lodi General Plan establishes a policy framework that forms the City of Lodi's strategy for retail; and

Whereas, the Lodi General Plan recognizes three distinct types of shopping centers – neighborhood/community commercial; general commercial; and downtown commercial; and

Whereas, the Lodi General Plan establishes policies encouraging promoting downtown Lodi as the City's social and cultural center and an economically viable retail and professional office district, it promotes locating future commercial retail in downtown Lodi and preserving the existing small-town scale and character of Lodi; and

Whereas, General Plan policies promote and encourage vital neighborhood commercial districts that are evenly distributed throughout the city so that residents are able to meet their basic daily shopping needs at neighborhood shopping centers; and

Whereas, the California Government code also provides that in order for the ordinance to be consistent with the General Plan, the various land uses authorized by the ordinance should be compatible with the objectives, policies, general land uses, and programs specified in the General Plan; and

Whereas, the Lodi zoning ordinance (Title 17 of the Lodi Municipal Code) has not kept pace with the evolution of the retail sector and fails to adequately distinguish the size, scale and scope of various retail activities; and

Whereas, an emerging national trend exists toward increasing the size of retail outlets and the diversity of products offered at such large-scale discount stores and discount superstores; and

Whereas, the establishment of discount stores in Lodi is likely to negatively impact the vitality and economic viability of the city's neighborhood community commercial and downtown commercial centers by drawing sales away from traditional retail stores located in these centers; and

Whereas, discount superstores adversely affect the viability of small-scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in these areas; and

Whereas, given the city's current population of 60,000, there are currently adequate retail stores to support the

market for large-scale retail; and

Whereas, the proposed amendments to the zoning ordinance are intended to preserve the city's existing neighborhood-serving shopping centers that are centrally located within the community; and

Whereas, this distribution of shopping and employment creates a land use pattern that reduces the need for vehicle trips and encourages walking and biking for shopping, services, and employment; and

Whereas, a significant concern with large retail discount stores is that they combine neighborhood-serving retail in a more remote, regional-serving retail center which would result in the decline of neighborhood-serving retail stores by consolidating their activity in a single, outlying location; and

Whereas, the remote location of large retail discount stores means that local residents are forced to drive further for basic services such as groceries, and are forced to take longer and more frequent traffic trips to the regional commercial center to satisfy basic everyday needs, increasing overall traffic and overburdening streets that were not designed to accommodate such traffic; and

Whereas, the proposed amendments to the zoning ordinance, by limiting large-scale retail stores, will prevent the negative transportation and related air quality impacts that establishment of such stores is likely to have; and

Whereas, numerous local jurisdictions in the country and the State of California, taking all of the above considerations in mind, have enacted ordinances on new large retail stores over a certain size that either completely prohibit new retail stores over a certain size or require special impact studies; and

Whereas, California jurisdictions that have recently enacted such regulations to help sustain the vitality of small-scale, more pedestrian-oriented neighborhood shopping districts include the Cities of Turlock, Santa Maria, San Luis Obispo, Arroyo Grande, Oakland and Martinez; and

Whereas, a potential discount superstore would directly contravene the approach the city's General Plan established for retail; and

Whereas, the proposed regulations will place stricter controls on the establishment of, or conversion to large-scale stores and would prevent a large-scale store with potential negative environmental impacts from being established in Lodi, but will not itself generate environmental impacts or necessitate environmental review; and

Whereas, the adoption of these regulations does not approve any development project nor does it disturb the physical environment either directly or indirectly as the regulations modify the limitations of land use by limiting large-scale retail stores that exceed 100,000 square feet of gross floor area and require such projects be approved by the citizens' votes; and

Whereas, requiring voter approval of land use development of large-scale retail stores that exceed 100,000 square feet of gross floor area will ensure opportunities for full public participation in decisions affecting future land use, quality of life, and character of the City of Lodi.

NOW, THEREFORE, the City of Lodi hereby ordains that:

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is amended by the addition of Section



17.36.035, which shall read as follows:

"Retail structures in the C-1 district shall not exceed 100,000 square feet in gross floor area unless approved by public vote. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas."

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Section 17.39.035, which shall read as follows:

"Retail structures in the C-2 district shall not exceed 100,000 square feet in gross floor area unless approved by public vote. For the purposes of this subsection, the term "gross floor area" shall include outside retail areas."

The Lodi Zoning Ordinance (Title 17 of the Lodi Municipal Code) is further amended by the addition of Sections 17.36.036 and 17.39.036 which shall read as follows:

"Nothing in this Chapter shall give the City Council the authority to grant a variance from the provisions of 17.36.035 and 17.39.035 relating to the maximum size of structures in the C-1 and C-2 Districts."

### **Section 3. Implementation.**

**A. Effective Date.** As provided in Elections Code section 9217, this Initiative shall take effect ten days after the date on which the election results are declared by the City Council. Upon the effective date of this Initiative, the provisions of Section 2 of this Initiative are hereby inserted into the City of Lodi's Planning and Zoning Code as an amendment thereof.

**B. Interim Amendments.** The City of Lodi's Zoning Code in effect at the time the Notice of Intent to circulate this Initiative was submitted to the City of Lodi Elections Official on March 30, 2004 ("Submittal Date"), and the ordinances as amended by this Initiative, comprise an integrated, internally consistent and compatible statement of policies for the City of Lodi. In order to ensure that the City of Lodi's Planning and Zoning remains an integrated, internally consistent and compatible statement of policies for the City as required by state law and to ensure that the actions of the voter in enacting this Initiative are given effect, any provision of the Planning and Zoning Code that is adopted between the Submittal Date and the date that the Planning and Zoning Code is amended by this measure shall, to the extent that such interim-enacted provision is inconsistent with the Planning and Zoning Code provisions adopted by Section 2 of this Initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by this Initiative and other elements of the City's Planning and Zoning Code.

**C. Other City Ordinances and Policies.** The City of Lodi is hereby authorized and directed to amend the Planning and Zoning Code, other ordinances, the General Plan, and policies affected by this Initiative as soon as possible and in the manner and time required by any applicable state law to ensure consistency between goals, objectives and policies adopted in Section 2 of this Initiative and other elements of the City's Planning and Zoning Code, General Plan, all community and specific plans, and other City ordinances and policies.

### **Section 4. Exemptions for Certain Projects**

This Initiative shall not apply to any of the following: (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law; (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution

**Section 5. Elections.**

Except for the renewal or repeal of this Article, any direct or indirect costs to the City of Lodi caused by the elections mandated by this Article shall be borne by the applicants for the large-scale development project in excess of 100,000 square feet, unless otherwise prohibited by state law.

Elections mandated by this Article shall be consolidated with other elections, whenever feasible. Different proposals may appear on the same ballot at the same election provided that each separate proposal affecting a discrete property or development project shall be submitted to the voters as a separate measure.

**Section 6. Severability and Interpretation.**

This Initiative shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. This Initiative shall be broadly construed in order to achieve the purposes stated in this Initiative.

**Section 7. Amendment or Repeal.**

Except as otherwise provided herein, this Initiative may be amended or repealed only by the voters of the City of Lodi.

Elizabeth M. Fiske

Elizabeth M. Fiske  
727 S. Lee Ave.  
Lodi, CA 95240

Glenda Hesselstine

Glenda Hesselstine  
727 Brandywine Dr.  
Lodi, CA 95240

Walter Pruss

Walter Pruss  
2421 Diablo Dr.  
Lodi, CA 95242

# VOTER INFORMATION PAMPHLET

Containing

MEASURE L

CONTRA COSTA COUNTY

TUESDAY, MARCH 2, 2004

Arguments in favor of or against the proposed measure are the opinions of the authors.

[CCC LOGO]

ALL STYLES

**ORDINANCE MEASURE L  
CONTRA COSTA COUNTY**

Shall the Large-Scale Retail Businesses Ordinance, Contra Costa County Ordinance No. 2003-18, be adopted?

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**COUNTY COUNSEL'S IMPARTIAL ANALYSIS OF  
ORDINANCE MEASURE L**

The Contra Costa County Board of Supervisors passed the Large-Scale Retail Businesses ordinance (Ordinance No. 2003-18) on June 3, 2003. Later, a referendum petition protesting the ordinance was presented to the Board of Supervisors. Since the petition contained the required number of voter signatures, the ordinance did not become effective. The Board of Supervisors then had to decide whether to repeal the ordinance entirely or submit the ordinance to the voters of the County. On October 7, 2003, the Board of Supervisors decided to submit the ordinance to the voters of the County.

This ballot measure asks voters whether the Large-Scale Retail Businesses ordinance should be adopted. The ordinance will become effective if a majority of voters voting on the measure favor the ordinance. If the ordinance becomes effective, it will only be effective in the unincorporated areas of the County, not in the cities.

The Large-Scale Retail Businesses ordinance prohibits any large-scale retail business from devoting more than 5 percent of its total sales floor area to the sale of non-taxable merchandise. The ordinance includes definitions of key terms. A large-scale retail business means "a retail business with more than 90,000 square feet of gross floor area," but "does not include wholesale clubs or other business establishments that charge membership dues or otherwise restrict merchandise sales to fee-paying customers." The sales floor area "includes only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space." Non-taxable merchandise "includes products, commodities, or items not subject to California state sales tax."

According to the Large-Scale Retail Businesses ordinance, its purpose "is to limit the negative impacts of large-scale retail businesses on traffic circulation, land use patterns, and the economic and social health of neighborhood commercial areas, by prohibiting large-scale retail businesses from devoting more than 5 percent of their total sales floor area to the sale of non-taxable merchandise."

A “yes” vote is a vote in favor of adopting the Large-Scale Retail Businesses ordinance.

A “no” vote is a vote against adopting the Large-Scale Retail Businesses ordinance.

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**ARGUMENT IN FAVOR OF  
ORDINANCE MEASURE L**

In order to prevent increased traffic congestion, protect the County’s remaining open space and agricultural lands, and to prevent unplanned growth, the Board of Supervisors adopted this ordinance to place reasonable restrictions on large scale “big box” retail stores larger than 90,000 square feet. This ordinance does not apply to cities but only to those areas of our County where open space and agricultural lands are most at risk.

Corporate interests from outside California are trying to block this ordinance.

Traffic congestion in the County continues to overburden our existing streets and roads, diminishes economic productivity, our quality of life, and our environment. Unplanned growth and sprawl continues to consume our County’s increasingly scarce open space and agricultural lands.

The Institute of Transportation Engineers has determined that “big box” retail stores larger than 90,000 square feet – the size of five football fields – that sell large volumes of non-taxable grocery items generate substantially more daily traffic than typical neighborhood-serving supermarkets, standard discount retail stores, and wholesale warehouse club stores. These businesses also consume as much as 20 acres of land, including a parking lot for over 1,000 cars – five times as much as a typical supermarket.

As a result, these businesses impose higher costs on the County than other retail businesses, in the form of increased traffic congestion, strained roadway infrastructure, and loss of open space, while generating little additional sales tax revenues to offset these costs. We seek to limit the negative impacts of such stores by placing reasonable size restrictions on them.

These restrictions apply only to retail stores greater than 90,000 square feet that devote more than 5 percent of floor space to the sale of non-taxable items. This ordinance won’t affect standard supermarkets, discount stores, and warehouse clubs.

Contra Costa County Board of Supervisors

Mark DeSaulnier, Chair  
Board of Supervisors

John Gioia, Member  
Board of Supervisors

Federal Glover, Member  
Board of Supervisors

Millie Greenberg, Member  
Board of Supervisors

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**REBUTTAL TO ARGUMENT IN FAVOR OF  
ORDINANCE MEASURE L**

If the Board of Supervisors cared about growth, why did they write an ordinance that would apply to only stores like Wal-Mart Supercenters but not all of its competitors?

**Because Measure L isn't about growth. It isn't about traffic. It's about politics.**

Caving into pressure from labor unions that have a dispute with Wal-Mart, the Supervisors wrote Measure L for the **sole purpose of preventing Wal-Mart from opening a Supercenter in unincorporated areas of Contra Costa County.**

Stores like Wal-Mart Supercenters actually reduce the number of traffic trips because consumers can get all their shopping done in one place instead of driving to several stores. The ability to get all your shopping done at one time at a Wal-Mart Supercenter would be a big help for working parents AND reduce traffic.

Measure L would also **hurt working families** in Contra Costa County who depend on Wal-Mart's low prices and seniors who benefit from their lower prescription drug prices.

And by limiting competition, **Measure L takes away our basic right to choose where to shop.**

Consumers, not politicians, should decide whether Contra Costa County has a Wal-Mart Supercenter.

**Measure L's restrictions apply only to stores like Wal-Mart Supercenters. Not to Costco. Not to Home Depot.** How does that protect agricultural land? It doesn't.

Local government has no business writing laws that discriminate. **It is wrong and so is Measure L. Please vote NO.**

Charlie Abrams  
Mayor of Walnut Creek  
and traffic engineer

Dave Hudson  
San Ramon Vice Mayor

Susan M. Rainey  
Walnut Creek City Council

Ronald E. Leone  
Director, Mt. Diablo Health Care  
District

Arne Simonsen  
Antioch City Councilmember

---

**ARGUMENT AGAINST  
ORDINANCE MEASURE L**

Should consumers be allowed to choose whether or not they wish to shop at Wal-Mart?

Of course they should. But our County Supervisors disagree.

The ordinance proposed by County Supervisors is not about controlling growth. **It's about politics.**

The restrictions of this highly unfair ordinance apply only to stores like Wal-Mart Supercenters, and not to stores like Costco and Home Depot. How does that control growth?

Why did the Supervisors propose this ordinance? Because they were pressured by unions who want to organize Wal-Mart employees.

Unions shouldn't use local ordinances that limit competition and consumer choice in their fight against Wal-Mart.

**And it is just plain wrong for local politicians to write laws that discriminate.**

Regular zoning laws already apply to the location of large retailers. Besides, we should let consumers decide where to shop, not politicians.

Not everyone can afford to shop at fancy department stores. Many working families depend on Wal-Mart's low prices, and seniors benefit from their lower prescription drug prices.

What's more, the ability to get all your shopping done in one place like a Wal-Mart Supercenter is a big help for working parents.

When a new Wal-Mart Supercenter opens in a community, it typically

creates 500 new jobs and generates at least \$500,000 in new sales tax revenue.

In today's economy, why are the Supervisors discouraging new businesses?

This issue is not just about shopping at Wal-Mart. It's about the right to shop where you choose.

Consumers, voting with their feet and pocketbooks, should make those choices. Not politicians.

**The Board of Supervisors is practicing the worst kind of special interest politics when it proposes an ordinance that applies to stores like Wal-Mart Supercenters, but not all of its competitors.**

This ordinance is not about growth. It's about politics.

It's not fair. And it's wrong. Vote NO.

James W. Conley  
Antioch City Councilman

David E. Hudson  
San Ramon Vice Mayor

John T. Nejedly  
Contra Costa Community College District Trustee

Susan M. Rainey  
Walnut Creek City Council

Charlie Abrams  
Mayor, City of Walnut Creek

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**REBUTTAL TO ARGUMENT AGAINST  
ORDINANCE MEASURE L**

Measure L is about protecting our quality of life. It's not about Wal-Mart or the unions.

We have a history in Contra Costa County of **locally controlling how we grow** and prosper. It's what makes Contra Costa County an attractive place to live and work.



If we are to maintain our quality of life we must maintain our power to make land use decisions.

We can't allow company executives in other states to make choices for us. Their bottom line is profits, not the well-being of our community.

**Big box superstores that sell groceries generate substantially more traffic than typical supermarkets -- as many as 4,000 additional car trips per day.** This increases congestion on our already over-crowded roadways.

These superstores consume huge amounts of open space. **This ordinance would protect the last remaining open spaces and agricultural lands in our County.**

**Big box superstores hurt local small businesses and destroy more jobs than they create.** For every one superstore that opens, two supermarkets close.

Don't be fooled by Wal-Mart's claim of \$500,000 in new sales tax revenue. Superstores don't generate new tax revenue or jobs, they take it away from existing local businesses that anchor vibrant neighborhood shopping areas.

Keep the power in your hands. Vote yes on Measure L to keep local control.

Congressman George Miller

Rev. Phil Lawson,  
President, NAACP, Hercules-Pinole-Crockett-Rodeo Branch

Maria Alegria  
Executive Director, Faith Works  
City Council Member, Pinole

Arnold Kasendorf  
President, American Association of Retired Persons (AARP), Richmond Chapter

Greenbelt Alliance/People for Open Space

**FULL TEXT OF  
ORDINANCE MEASURE L**

ORDINANCE NO. 2003-18

**LARGE-SCALE RETAIL BUSINESSES**

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance adds Chapter 82-38 to the County Ordinance Code to prohibit large-scale retail businesses from devoting more than 5 percent of their total sales floor area to the sale of non-taxable merchandise.

**SECTION II.** Chapter 82-38 is added to the County Ordinance Code, to read:

**Chapter 82-38  
LARGE-SCALE RETAIL BUSINESSES**

**82-38.002 Purpose.** The purpose of this ordinance is to limit the negative impacts of large-scale retail businesses on traffic circulation, land use patterns, and the economic and social health of neighborhood commercial areas, by prohibiting large-scale retail businesses from devoting more than 5 percent of their total sales floor area to the sale of non-taxable merchandise. (Ord. 2003-18 § 2.)

**82-38.004 Definitions.** As used in this chapter, the following terms have the following meanings:

- (a) "Large-scale retail business" means a retail business with more than 90,000 square feet of gross floor area. "Large-scale retail business" does not include wholesale clubs or other business establishments that charge membership dues or otherwise restrict merchandise sales to fee-paying customers.
- (b) "Non-taxable merchandise" includes products, commodities, or items not subject to California state sales tax.
- (c) "Sales floor area" includes only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space. (Ord. 2003-18 § 2.)

**82-38.006 Prohibition.** No large-scale retail business shall devote more than 5 percent of its total sales floor area to the sale of non-taxable merchandise. (Ord. 2003-18 § 2.)

**82-38.008 Duty of owner and operator.** Every owner and operator of a large-scale retail business shall maintain the business in accordance with the provisions of this chapter and is liable for violations of this chapter regardless of any contract or agreement with any third party concerning the business. (Ord. 2003-18 § 2.)

**82-38.010 Enforcement.** If a violation of this chapter occurs, the County may seek compliance by any remedy allowed under this code and any other remedy allowed by law. (Ord. 2003-18 § 2.)

**SECTION III. EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days after passage shall be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED on June 3, 2003, by the following vote:

AYES: Supervisors Gioia, Glover and DeSaulnier  
NOES: None  
ABSENT: None  
ABSTAIN: None Supervisor Uilkema recused herself from the vote  
\*\*District III Seat VACANT\*\*  
ATTEST: JOHN SWEETEN, Mark DeSaulnier  
Clerk of the Board of Supervisors Board Chair  
and County Administrator

By: Danielle Kelly  
Deputy



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt resolution approving the job specification and salary range for the position of Fire Administrative Captain and provide authorization to fill the position

**MEETING DATE:** April 7, 2004

**PREPARED BY:** Joanne M. Narloch, Human Resources Director

**RECOMMENDED ACTION:** That City Council approve the proposed salary range and attached job specification for Fire Administrative Captain, and provide authorization to fill this position in the current fiscal year.

**BACKGROUND INFORMATION:** A Fire Administrative Captain position has been budgeted for implementation during the 2003-05 budget cycle. To briefly summarize, the Fire Administrative Captain will be a specialist responsible for developing programs in the Fire Department. The types of programs this position will coordinate include: fire prevention and public education activities, enforcement of life and safety codes and ordinances, review of complex building construction and business emergency plans, preparation of grant applications, as well as coordination of training programs. A job specification (Attachment A) for this position is attached for City Council approval. The salary range recommended for this position is the same as that of a non-administrative Fire Captain:

### Fire Administrative Captain

Step A	Step B	Step C	Step D	Step E
4749.94	4987.43	5236.81	5498.65	5773.58

Assuming this position will be approved in FY 04-05, we are less than three months away from implementing this position. At this time we have an employee who is medically precluded from performing his current duties as a Fire Captain. Whenever feasible, in accordance with the ADA, the City strives to find reasonable accommodation for employees. In these situations, one option Human Resources explores is the potential for placing the employee in another available position for which he/she is qualified. By providing authorization to fill this position in the current fiscal year, the City Council will create the opportunity for this individual to compete for the Fire Administrative Captain position.

APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

**FUNDING:** It is anticipated this position will now be filled in Mid-May 2004. Accelerating implementation of this position by six weeks will result in a net cost of approx. \$4,795 for salary and benefits in FY 2003-04. After July 1<sup>st</sup>, 2004 there will be no additional cost since the position is budgeted in FY 2004-05 and will be part of the Department's regular compliment of positions into the future.

The Fire Chief indicates sufficient funds exist in the Department's current staffing budget to cover additional costs presented by implementation of the Fire Administrative Captain position in the current fiscal year.

---

Vicky McAthie, Finance Director

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Joanne M. Narloch  
Human Resources Director

\_\_\_\_/\_\_\_\_

Attachments

cc:

RESOLUTION NO. 2004-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
JOB SPECIFICATION AND SALARY RANGE FOR FIRE  
ADMINISTRATIVE CAPTAIN, AND FURTHER AUTHORIZING  
FILLING THE POSITION IN THE CURRENT FISCAL YEAR

=====

WHEREAS, a Fire Administrative Captain position has been budgeted for implementation during the 2003-05 budget cycle; and; and

WHEREAS, this Fire Administrative Captain position will be a specialist responsible for developing programs in the Fire Department, which include coordinating fire prevention and public education activities, enforcement of life and safety codes and ordinances, review of complex building construction and business emergency plans, preparation of grant applications, as well as coordination of training programs; and

WHEREAS, the salary range for this position is the same as that of a non-administrative Fire Captain, as follows:

Step A	Step B	Step C	Step D	E
\$4,749.94	\$4,987.43	\$5,236.81	\$5,498.65	\$5,773.58

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby approves the job specification as shown on Exhibit A attached, and salary range for the position of Fire Administrative Captain; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the filling of this position in the current fiscal year utilizing funds existing in the Fire Department's current staffing budget.

Dated: April 7, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

CITY OF LODI

April 10, 2004

**FIRE ADMINISTRATIVE CAPTAIN****DEFINITION:**

Under general direction of the Fire Division Chief, develops, coordinates and/or administers a variety of departmental programs and activities. Assists in planning, organizing and directing activities of the Fire Department in an administrative capacity.

**DISTINGUISHING CHARACTERISTICS:**

The Fire Administrative Captain is assigned to Fire Administration and oversees various departmental programs such as fire prevention and training. Whereas the Fire Captain is assigned to suppression and supervises line personnel.

**EXAMPLES OF DUTIES:**

Duties may include, but are not limited to, the following:

- Assists in the development and implementation of policies and procedures;
- Develops, coordinates and participates in the activities of the fire safety public education section of the Fire Prevention Bureau throughout the community;
- Reviews and approves complex and technical building construction plans such as commercial buildings, manufacturing plants, and hospitals for compliance with fire and life safety codes;
- Inspects complex operations, processes, devices, and equipment such as fire protection systems and hydrant distribution systems requiring the inspection or approval of the Fire Prevention Bureau;
- Evaluates information provided on disclosure forms, issues permits, and assigns fees; interprets policies, procedures, and documents relating to chemicals and requirements of disclosure laws; determines if business emergency plan is required; reviews, evaluates and processes business emergency plans;
- Provides technical assistance to fire companies and hazardous materials response teams; develops procedures; coordinates hazardous materials disclosure program with fire inspections conducted and issued by engine companies;
- Researches and applies for funded grants and administers process for grants and accompanying documentation;
- Works with other governmental agencies and interested parties in the following areas: developing codes and ordinances for compliance and enforcement of building and fire codes and standards, the building development and planning process for more difficult projects; weed and rubbish abatement; and hazardous material disclosure and enforcement;

EXAMPLES OF DUTIES (continued):

- Serves as staff program manager in areas such as fire prevention, special operations, medical services and other related programs; recommends goals and objectives;
- Prepares, directs and coordinates training programs; reviews and assesses training needs and available programs; oversees and coordinates the attendance of departmental staff at training programs and seminars; researches policies and procedures related to training activities;
- Assists in the development of monthly training calendars and bulletins, monthly training schedules for company training and special courses;
- Develops and revises course outlines, lesson plans, standard operating guidelines, information sheets, audio-visual aides, examinations and other training materials;
- Interprets fire prevention, operations and training policies and procedures;
- Prepares and reviews forms, reports, schedules, recommendations and other administrative records related to fire suppression, training or other special programs as assigned;
- Assist in the development and administration of the approved budget;
- Conducts investigations to determine origin and cause of fires and performs criminal investigations;
- Performs related work as assigned.

MINIMUM QUALIFICATIONS:

Knowledge of:

- Local, state and federal laws, ordinances and regulations regarding fire protection, building codes, and hazardous materials;
- Laws of arrest, rules of evidence and courtroom procedure;
- Principles, techniques, strategy, materials and equipment used in fire suppression, investigation and prevention, rescues and related emergency response;
- Department rules, regulations and standard operation policies and procedures;
- Principles and practices of organization, administration, budget, project management and personnel management;
- Principles and practices of training in the areas of emergency medical care and disaster management, fire suppression and rescue;
- Principles and practices of fire and life safety inspection, enforcement work and hazardous materials disclosure including their relationship to fire ground operations;
- Principles and practices of employee supervision, including selection, training, work evaluation and discipline;
- Modern office procedures, methods and computer equipment;
- Principles and practices of budget preparation and administration;
- Principles and practices of reporting and record keeping;
- Safety practices and precautions pertaining to the work.



MINIMUM QUALIFICATIONS (continued):

Ability to:

- Organize, schedule, assign, and review the work of others;
- Analyze emergency response and operations problems, develop sound alternatives, and make effective decisions under emergency circumstances;
- Analyze facts and make sound recommendations;
- Communicate clearly and concisely, both orally and in writing;
- Use and operate a personal computer, software and peripheral equipment;
- Develop, implement, apply, coordinate and evaluate a multitude of training programs that meet the needs of the department;
- Understand, interpret and apply Uniform Fire Code, Health and Safety Code, Uniform Building Code, and other local laws and ordinances, and state and federal laws and regulations;
- Plan, administer, coordinate and supervise fire prevention and public education programs for the general public, civic groups, schools and private industry;
- Read and comprehend construction drawings and specifications and detect necessary changes to bring into compliance with appropriate building and fire codes;
- Establish and maintain effective working relationships with employees, officials and the public;
- Maintain accurate records and prepare clear and concise reports and other written materials.

EDUCATION AND EXPERIENCE:

Any combination equivalent to education and experience that would likely provide the required knowledge and abilities would be qualifying. A typical combination is:

Education:

- Equivalent to completion of high school.
- College level Fire Science course work is desirable.

Experience:

Five years of fire fighting experience.

LICENSES AND CERTIFICATES:

- Possession of the appropriate Commercial Driver's License with endorsements, as mandated by the California Commercial Vehicle Code.
- Certification as an Emergency First Responder.
- Completion of all coursework necessary for Certification as a State of California Fire Officer.
- Certification as a City of Lodi Fire Engineer.
- If assigned to Fire Prevention must obtain within 12 months of appointment the Penal Code 832 certificate and California Fire Prevention Officer Level II certificate.

OTHER REQUIREMENTS:

- Participation in the Lodi Fire Department Physical Fitness Program.
- It is a condition of employment that any fire service employee hired into the Fire Department, not use tobacco in any form.



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official Map of the City of Lodi and Thereby Rezoning the Parcel Located at 5952 East Pine Street (APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial"

**MEETING DATE:** April 7, 2004

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1745.

**BACKGROUND INFORMATION:** Ordinance No. 1745 entitled, "An Ordinance of the Lodi City Council Amending the Official Map of the City of Lodi and Thereby Rezoning the Parcel Located at 5952 East Pine Street (APN 049-090-13) from San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial" was introduced at the regular City Council meeting of March 17, 2004.

**ADOPTION:** With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the Interim City Attorney.

**FUNDING:** None required.

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Susan J. Blackston  
City Clerk

SJB/JMP  
Attachment

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

ORDINANCE NO. 1745

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING  
THE OFFICIAL DISTRICT MAP OF THE CITY OF LODI AND  
THEREBY PREZONING THE PARCEL LOCATED AT  
5952 EAST PINE STREET (APN 049-090-13) FROM  
SAN JOAQUIN COUNTY A-U, AGRICULTURAL URBAN  
RESERVE, TO M-2, HEAVY INDUSTRIAL

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

Section 1. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows:

The parcel located at 5952 East Pine Street (APN 049-090-13) is hereby prezoned as follows:

10-acre parcel - San Joaquin County A-U, Agricultural Urban Reserve, to M-2, Heavy Industrial, as shown on the Vicinity Map, on file in the office of the City Clerk.

Section 2. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Planning Commission and by the City Council of this City after public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto.

Section 3 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4 - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 6. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 7<sup>th</sup> day of April, 2004

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LARRY D. HANSEN  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk

State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1745 was introduced at a regular meeting of the City Council of the City of Lodi held March 17, 2004, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1745 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
Interim City Attorney



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Ordinance No. 1746 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17, Zoning, by Adding Chapter 17.58, Design Standards for Large Retail Establishments"

**MEETING DATE:** April 7, 2004

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1746.

**BACKGROUND INFORMATION:** Ordinance No. 1746 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17, Zoning, by Adding Chapter 17.58, Design Standards for Large Retail Establishments" was introduced at the regular City Council meeting of April 7, 2004.

**ADOPTION:** With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934.***

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937.***

This ordinance has been approved as to form by the Interim City Attorney.

**FUNDING:** None required.

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Susan J. Blackston  
City Clerk

SJB/JMP  
Attachment

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APPROVED: \_\_\_\_\_  
H. Dixon Flynn, City Manager

ORDINANCE NO. 1746

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF LODI AMENDING LODI MUNICIPAL CODE TITLE 17 -  
ZONING BY ADDING CHAPTER 17.58 DESIGN  
STANDARDS FOR LARGE RETAIL ESTABLISHMENTS

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 17 – “Zoning” is hereby amended by adding Chapter 17.58, “Design Standards for Large Retail Establishments,” to read as follows:

Chapter 17.58

DESIGN STANDARDS FOR LARGE RETAIL ESTABLISHMENTS

Sections:

- 17.58.010 – Purpose
- 17.58.020 – Applicability
- 17.58.022 – Variances
- 17.58.030 – Facades and Exterior Walls
- 17.58.040 – Smaller Retail Stores
- 17.58.050 – Detail Features
- 17.58.060 – Roofs
- 17.58.070 – Materials and Colors
- 17.58.080 – Entryways
- 17.58.090 – Back and Side Facades
- 17.58.100 – Entrances
- 17.58.110 – Off-Street Parking Areas
- 17.58.120 – Back Sides
- 17.58.130 – Outdoor Storage, Trash Collection, and Loading Areas
- 17.58.140 – Pedestrian and Bicycle Flows
- 17.58.150 – Central Features and Community Spaces
- 17.58.160 – Delivery/Loading Operations

Design Standards for Large Retail Establishments

17.58.010 – Purpose

The City of Lodi adopted this ordinance on large retail developments - "superstores" - to provide the community with clear and enforceable policies to mitigate visual impacts. These guidelines provide the opportunity to set standards for future developments to ensure that future development fits with the expectations and meets the needs of the community.

These standards and guidelines are a response to dissatisfaction with corporate chain marketing strategy dictating design that is indifferent to local identity and interests. The main goal is to encourage development that contributes to Lodi as a unique place by reflecting its physical character and adding to it in appropriate ways.

Large retail developments depend on high visibility from major public streets. In turn, their design determines much of the character and attractiveness of major streetscapes in the city. The marketing interests of many corporations, even with strong image making design by professional designers, can be potentially detrimental to community aspirations and sense of place when they result in massive individual developments that do not contribute to or integrate with the city in a positive way.

Lodi already has a development review system that promotes solutions to these general issues. The purpose of these standards and guidelines is to augment those existing criteria with more specific interpretations that apply to the design of large retail store developments.

These standards and guidelines require a basic level of architectural variety, compatible scale, pedestrian and bicycle access, and mitigation of negative impacts. The standards are by no means intended to limit creativity; it is the City's hope that they will serve as a useful tool for design professionals engaged in site-specific design in context. They are placed within the framework of the Zoning Ordinance, which provides for variance from the requirements if the proposal is equal to or better than the City's requirements.

#### 17.58.020 – Applicability

The following standards and guidelines are intended to be used as a design aid by developers proposing large retail developments in community regional shopping centers or as uses-by-right; and as an evaluation tool by the City staff, Planning Commission, and Site Plan and Architectural Review Committee in their review processes. These standards and guidelines apply to all retail establishments of more than 25,000 square feet.

The "Intent" is provided in order to educate planners, design consultants, developers and City staff about the design objectives while the "Standards" are mandatory. The intent and standards are to be used in conjunction with all development criteria of the Lodi Municipal Code.

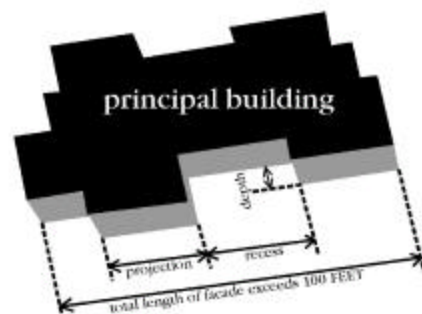
#### 17.58.022 – Variances

The Planning Commission is empowered to grant variances to the mandatory standards under the circumstances provided by the California Government Code.

#### 17.58.030 – Facades and Exterior Walls

##### 17.58.031 – Intent:

Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large retail buildings and provide visual interest that will be consistent with the community's identity, character and scale. This is to encourage a more human scale that Lodi residents will be able to identify with their community.

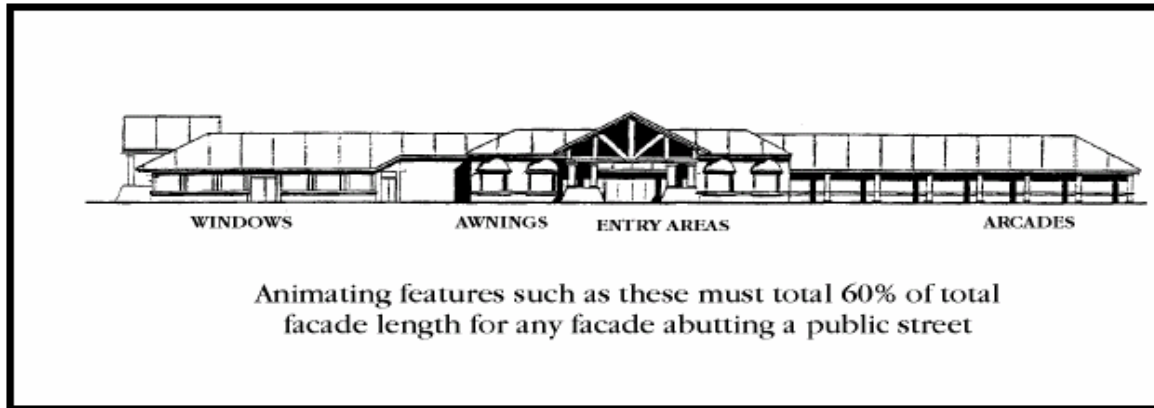


projections / recesses shall comprise at least 20% of facade length with a minimum depth of 3% of facade length



17.58.032 Standards:

- A. Facades greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the façade and extending at least 20 percent of the length of the facade. No uninterrupted length of any façade shall exceed 100 horizontal feet.
- B. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings, or other such features along no less than 60 percent of their horizontal length.



17.58.040 – Smaller Retail Stores

17.58.041 – Intent:

The presence of smaller retail stores gives a center a "friendlier" appearance by creating variety, breaking up large expanses, and expanding the range of the site's activities. Windows and window displays of such stores should be used to contribute to the visual interest of exterior facades. The standards presented in this section are directed toward those situations where additional, smaller stores, with separate, exterior customer entrances are located in principal buildings.

17.58.042 – Standard:

Where principal buildings contain additional, separately owned stores which occupy less than twenty five thousand (25,000) square feet of gross floor area, with separate, exterior customer entrances:

- A. The street level facade of such stores shall have storefront windows between the height of three feet and eight feet above the walkway grade for no less than 60 percent of the horizontal length of the building facade of such additional stores.
- B. Windows shall be recessed and should include visually prominent sills, shutters, or other such forms of framing.

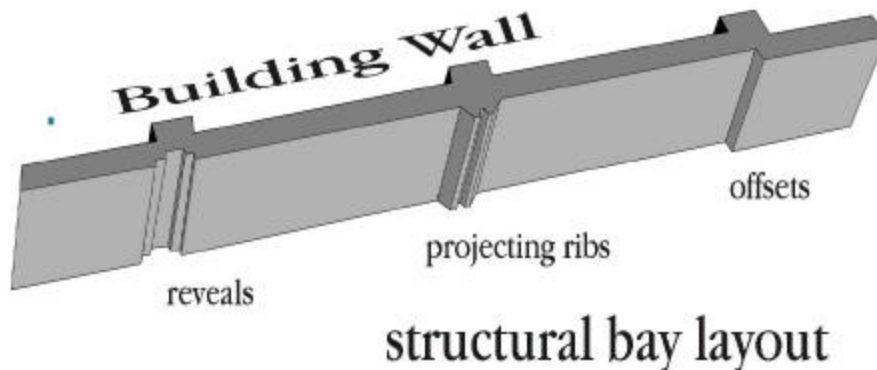
## 17.58.050 – Detail Features

### 17.58.051 – Intent:

Buildings should have architectural features and patterns that provide visual interest at the scale of the pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standard should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint.

### 17.58.052 – Standard

- A. Building facades must include a repeating pattern that shall include no less than three of the elements listed below:
1. Color change.
  2. Texture change.
  3. Material module change.
  4. Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.



- B. At least one of these elements shall repeat horizontally.
- C. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.

17.58.060 – Roofs

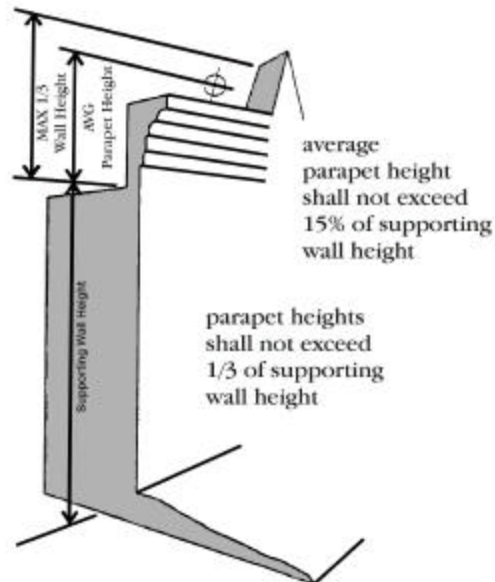
17.58.061 – Intent:

Variations in roof lines should be used to add interest to, and reduce the massive scale of, large buildings. Roof features should complement the character of adjoining neighborhoods.

17.58.062 – Standard:

Roofs shall have no less than two of the following features:

- A. Parapets concealing flat roofs and rooftop equipment such as HVAC units from public view. The average height of such parapets shall not exceed 15% of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatment.



- B. Overhanging eaves, extending no less than 3 feet past the supporting walls.
- C. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to 1 foot of vertical rise for every 3 feet of horizontal run and less than or equal to 1 foot of vertical rise for every 1 foot of horizontal run.
- D. Three or more roof slope planes.

17.58.070 – Materials and Colors

17.58.071 – Intent:

Exterior building materials and colors comprise a significant part of the visual impact of a building. Therefore, they should be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

17.58.072 – Standard:

- A. Predominant exterior building materials shall be high quality materials. These include, without limitation:
  - 1. clay brick
  - 2. wood
  - 3. rock or other native stone
  - 4. stucco, of varied finishes
  - 5. tinted, textured, concrete masonry units
- B. Facade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
- C. Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
- D. Predominant exterior building materials shall not include the following:
  - 1. smooth-faced concrete block
  - 2. smooth finished tilt-up concrete panels
  - 3. pre-fabricated steel panels, except as an architectural roofing material

#### 17.58.080 – Building Entryways

##### 17.58.081 – Intent:

Entryway design elements and variations should give orientation making them easy to identify both day and night as well as providing aesthetically pleasing character to the building. The standards identify desirable entryway design features.

##### 17.58.082 – Standard:

- A. Each principal building on a site shall have clearly defined, highly visible customer entrances utilizing no less than three of the following to become the most prominent features:
  - 1. canopies or porticos
  - 2. overhangs
  - 3. recesses/projections
  - 4. arcades
  - 5. raised corniced parapets over the door
  - 6. peaked roof forms (e.g. gable or hip)
  - 7. arches
  - 8. outdoor patios
  - 9. display windows
  - 10. architectural details such as tile work and moldings which are integrated into the building structure and design
  - 11. integral planters or wing walls that incorporate landscaped areas and/or places for sitting
- B. Where additional stores will be located in the principal building, each such store shall have at least one exterior customer entrance, which shall conform to the above requirements.

#### 17.58.090 – Back and Side Facades

##### 17.58.091 – Intent:

All facades of a building which are visible from adjoining properties and/or public streets should contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to the front facade.

##### 17.58.091 – Standards:

All building facades which are visible from adjoining properties and/or public streets shall comply with the requirements of, Section 17.58.030 of these Design Standards and Guidelines.

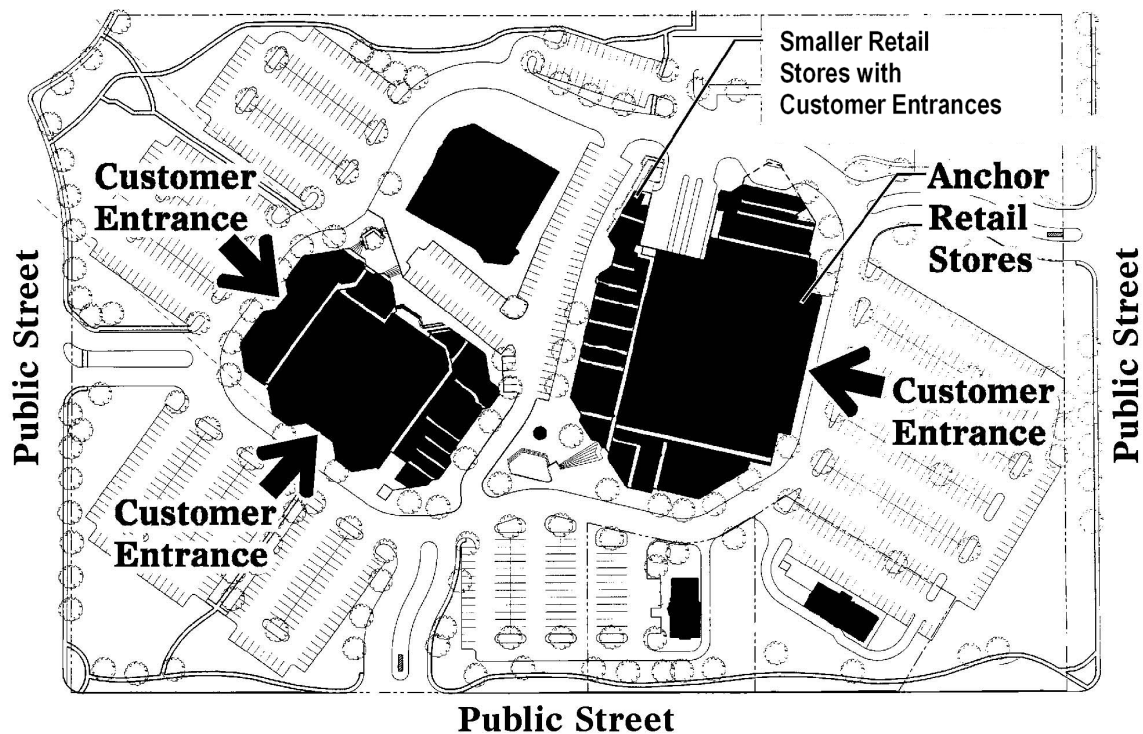
#### 17.58.100 – Pedestrian Entrances

##### 17.58.101 – Intent:

Large retail buildings should feature multiple entrances, which reduce walking distances from parking areas and public sidewalks, and provide convenient access to individual stores, or departments within a store. Multiple entrances can also mitigate the effect of uninterrupted walls and neglected areas that are often facing bordering land uses.

17.58.102 – Standard:

- A. All sides of a principal building that face an abutting public street shall feature at least one customer entrance. Where a principal building faces more than two public streets, this requirement shall only apply to two sides of the building; the side facing the primary street, and another side facing a second street. Movie theatres are exempt from this requirement.



#### 17.58.110 – Off-Street Parking Areas

##### 17.58.111 – Intent:

Parking areas should provide safe, convenient, and efficient access. Parking should be distributed around large buildings in order to shorten the distances between buildings and public sidewalks, and reduce the visual impact of one large paved surface. With buildings located closer to streets, the scale of the complex is reduced, walking is encouraged, and architectural details take on added importance.

Covering the ground with asphalt has several long-term environmental impacts including excessive storm water run-off during the winter and tremendous increases in the ambient heat radiated by the asphalt. In order to provide adequate parking while practicing good stewardship of resources, the City has established a minimum and maximum range of off-street parking for large retail operations.

##### 17.58.112 – Standard:

- A. No more than sixty (60) percent of the off-street parking area for the lot, tract or area of land devoted to the large retail establishment shall be located between the front facade of the large retail establishment and the abutting streets (the "Front Parking Area. The front parking area shall be determined by drawing a line from the front corners of the building, parallel with the building sides, straight to the public street forming a 90 degree angle with the front façade.
- B. Parking spaces in the Front Parking Area shall be counted to include all parking spaces within the boundaries of the Front Parking Area, including:
  - (i) all partial parking spaces if the part inside the Front Parking Area boundary lines constitutes more than one-half ( $\frac{1}{2}$ ) of the parking space, and
  - (ii) all parking spaces associated with any pad sites located within the Front Parking Area boundaries.
- C. The minimum number of off-street parking spaces to be provided by a large-scale retail operation shall be 2 spaces for every 1,000 square feet of building space. The maximum number of off-street parking spaces shall not exceed five (5) spaces for every 1,000 square feet of building space.

For phased developments, parking areas shall only be constructed when the adjoining building for which the parking is required is built.

Additional parking stalls, beyond the maximums provided, may be allowed when developed in a multi-level structure with Planning Commission approval.

- D. Parking lot light poles shall not exceed a height of 25 feet.
- E. Landscaping in parking areas shall incorporate such material, as necessary, in order to achieve a minimum 50% shading requirement within 5 years of planting.

17.58.120 – Back Sides

17.58.121 – Intent:

The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts.

17.58.122 – Standard:

- A. The minimum setback for any building facade shall be thirty-five (35) feet from the nearest property line.
- B. Where the façade of a large scale retail building faces a public street that is adjacent to an existing or planned residential zone boundary or uses, an earthen berm no less than 6 feet in height, containing evergreen trees planted at intervals of 20 feet on center, or the equivalent in clusters, shall be provided.
- C. Garbage receptacles shall be constructed of solid textured masonry material with a decorative masonry cap. The gates frames shall be constructed of heavy gauge steel and provided with a solid opaque finish. Enclosures shall be provided with a cover such that storm water run-off from the enclosure is minimized.

17.58.130 – Outdoor Storage, Trash Collection, and Loading Areas

17.58.131 – Intent:

Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.

17.58.132 – Standard:

- A. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from abutting streets.
- B. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk, or internal pedestrian way.



- C. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash collection, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
- D. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with landscaping, walls and/or fences. Materials, colors, and design of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the building.

17.58.140 – Pedestrian and bicycle Flows

17.58.141 – Intent:

Pedestrian and bicycle accessibility opens auto-oriented developments to the neighborhood, reducing traffic impacts and enabling the development to project a friendlier, more inviting image. This section sets forth standards for public sidewalks and internal circulation systems that can provide user-friendly access as well as pedestrian safety, shelter, and convenience within the center grounds.

17.58.142 – Standard:

- A. Sidewalks at least 8 feet in width shall be provided along all sides of the lot that abut a public street.
- B. Continuous internal pedestrian walkways, no less than 8 feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length.
- C. Sidewalks, no less than 8 feet in width, shall be provided along the full length of the building along any facade featuring a customer entrance, and along any facade abutting public parking areas. A minimum six (6) foot wide landscaped area shall be provided adjacent to the sidewalk, except where features such as arcades or entry ways are part of the façade.
- D. Internal pedestrian walkways provided in conformance with Part (b.) above shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances.

- E. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Traffic calming measures shall be incorporated where pedestrian walkways intersect with drive aisles.
- F. Bicycle circulation shall be separated from vehicular traffic and shall be provided from each public street access to bicycle parking areas required throughout the site.

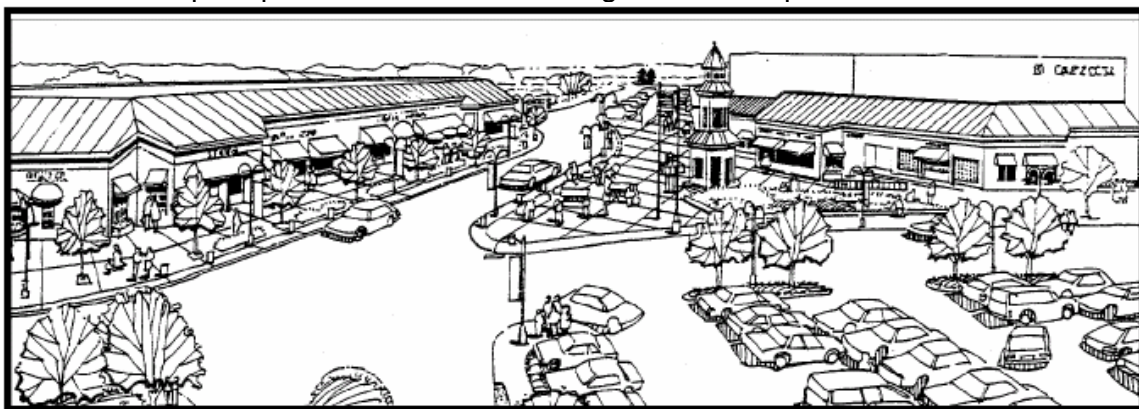
#### 17.58.150 – Central Features and Community Spaces

##### 17.58.151 – Intent:

Buildings should offer attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. Bus stops and drop-off/pick-up points should be considered as integral parts of the configuration. Pedestrian ways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls, and other architectural elements that define circulation ways and outdoor spaces. Examples of outdoor spaces are plazas, patios, courtyards, and window shopping areas. The features and spaces should enhance the building and the center as integral parts of the community fabric.

##### 17.58.152 – Standard:

- A. Each retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower, or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the Planning Commission, adequately enhances such community and public spaces.
- B. All such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.



Example of a center with numerous special features and community spaces.

17.58.160 – Delivery/Loading Operations

17.58.161 – Intent:

Delivery and loading operations should not disturb adjoining neighborhoods, or other uses.

17.58.162 – Standard:

- A. No delivery, loading, trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the applicant submits evidence that sound barriers between all areas for such operations effectively reduce noise emissions to a level of 60 db, as measured at the lot line of any adjoining property.
- B. Delivery trucks shall not be allowed to remain running in an idle state during loading and unloading activities.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the “Lodi News-Sentinel,” a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this 7<sup>th</sup> day of April, 2004

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LARRY D. HANSEN  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk

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State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1746 was introduced at a regular meeting of the City Council of the City of Lodi held March 17, 2004, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held April 7, 2004, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1746 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER  
Interim City Attorney

Comments by the City Council Members on non-agenda items